





ARGUMENT
OF
HON. EDWARDS PIERREPONT
TO THE JURY,
ON THE TRIAL OF
JOHN H. SURRATT
FOR
THE MURDER
OF
PRESIDENT LINCOLN.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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ARGUMENT.

May it please your honor and gentlemen of the jury, I have not, in the progress of this long and tedious cause, had the opportunity as yet of addressing to you one word. My time has now arrived. "Yea, all that a man hath will he give for his life." When the book of Job was written this was true, and it is just as true to-day. A man, in order to save his life, will give his property, will give his liberty, will sacrifice his good name, and will desert his father, his brother, his mother, and his sister. He will lift up his hand before Almighty God and swear that he is innocent of the crime with which he is charged. He will bring perjury upon his soul, giving all that he hath in this world, and be ready to take the chances and "jump the life to come;" and so far as counsel place themselves in the situation of their client, and just to the degree that they absorb his feeling, his terror, and his purpose, just so far will counsel do the same.

I am well aware, gentlemen, of the difficulties under which I labor in addressing you. The other counsel have all told you that they know you, and that you know them. They know you in social life, and they know you in political affairs. They know your sympathies, your habits, your modes of thought, your prejudices even. They know how to address you, and how to awaken your sympathies, while I come before you a total stranger. There is not a face in these seats that I ever beheld until this trial commenced, and yet I have a kind of feeling pervading me that we are not strangers. I feel as though we had a common origin, a common country, and a common religion, and that, on many grounds we must have a common sympathy. I feel as though if hereafter I should meet you in my native city, or in a foreign land, I should meet you not as strangers, but as friends. It was not a pleasant thing for me to come into this case. I was called into it at a time ill suited in every respect. I had just taken my seat in the convention called for the purpose of forming a new constitution for my State, and I was a member of the judiciary committee. That convention is now sitting, and I am now absent where I ought to be present. I felt, however, that I had no right to shirk this duty.

The counsel asked whether I represented the Attorney General in this case. They had, perhaps, the right to ask, and so asking I give you the answer. There surely is no mystery about the matter. The district attorney, feeling the magnitude of this case, felt that he ought to apply to the Attorney General for assistance in the prosecution of it, and he accordingly made the application. I have known the Attorney General more than twenty years. Our relations have been most friendly, both in a social and professional point of view. The Attorney General conferred with the Secretary of State, who is, as you know, from my own State, and they determined to ask me to assist in the prosecution of the cause. On receiving a letter from the Secretary of State, I came to Washington, when I met him and the Attorney General. That is the way I happened to be here engaged in this case; and I may say that I am assured that there was no member of the cabinet but those two who ever heard or knew of my retainer until after my arrival here. I have simply tried to perform my duty as I best could, but I have no doubt failed to a great extent. A trial protracted as this has been, and in such oppressive weather, is indeed a trial. It is a trial to the court, it is a trial to you, it is a trial to the counsel; it is a trial to health, it is a trial to patience, and it is a terrible trial to the temper. When the President of the United States was assassinated, I was one of a committee sent on by the citizens of New York to attend his funeral. When standing as I did

stand in the east room by the side of that coffin, if some citizen sympathizing with the enemies of my country had, because my tears were falling in sorrow, over the murder of the President, there insulted me and I had at that time repelled the insult with insult, I think my fellow-citizens would have said to me that my act was deserving of condemnation; that I had no right in that solemn hour to let my petty passions or my personal resentments disturb the sanctity of the scene. To my mind the sanctity of this trial is far above that funeral occasion, solemn and holy as it was, and I should forever deem myself disgraced if I should allow any passion of mine or personal resentment of any kind to bring me here into any petty quarrel over the murder of the President of the United States. I have tried to refrain from anything like that, and God helping me, I shall so endeavor to the end.

To me, gentlemen, this prisoner at the bar is a pure abstraction. I have no feeling toward him whatever. I never saw him until I saw him in this room, and then it was under circumstances calculated to awaken only my pity. I never knew one of his kindred, and never expect to know one of them. To me he is a stranger. Toward him I have no hostility, and I shall not utter any word of vituperation against him. I came to try one of the assassins of the President of the United States, as indicted before you. I laid personal considerations aside, and I hope I shall succeed in keeping them from this cause, so far as I am concerned. I believe, gentlemen, that what you wish to know in this case is the truth. I believe it is your honest desire to find out whether the accused was engaged in this plot to overthrow this government, and assassinate the President of the United States. My duty is to try to aid you in coming to a just conclusion. When this evidence is reviewed, and when it is honestly and fairly presented, when passions are laid aside, and when other people who have nothing to do with the trial are kept out of the case, you will discover that in the whole history of jurisprudence no murder was ever proved with the demonstration with which this has been proven before you. The facts, the proofs, the circumstances all tend to one point, and all prove the case, not only beyond a reasonable, but beyond any doubt.

This has been, as I have already stated, a very protracted case. The evidence is scattered. It has come in link by link, and as we could not have witnesses here in their order when you might have seen it in its logical bearings, we were obliged to take it as it came; and now it becomes my duty to put it together and show you what it is. I shall not attempt, gentlemen, to convince you by bold assertion of my own. I fancy I could make them as loudly and as confidently as the counsel upon the other side, but I am not here for that purpose. The counsel are not witnesses in the cause. We have come here for the purpose of ascertaining whether under the law and on the evidence presented, this man arraigned before you is guilty as charged. I do not think it proper that I should tell you what I think about everything that may arise in the case, or that I should tell you that I know that this thing is so and so, and that the other is another way. My business is to prove to you from this evidence that the prisoner is guilty. If I do that I shall ask your verdict. If I do not do that I shall neither expect nor hope for it.

I listened, gentlemen, to the two counsel who have addressed you for several days, without one word of interruption. I listened to them respectfully and attentively. I know their earnestness, and I know the poetry that was brought into the case, and the feeling and the passion that was attempted to be excited in your breasts, by bringing before you the ghost trailing her calico dress and making it rustle against these chairs. I have none of those powers which the gentlemen seem to possess, nor shall I attempt to invoke them. I have come to you for the purpose of proving that the party accused here was engaged in this conspiracy to overthrow this government, which conspiracy resulted in the death of Abraham Lincoln, by a shot from a pistol in the hands of John Wilkes

Booth. That is all there is to be proven in this case. I have not come here for the purpose of proving that Mrs. Surratt was guilty, or that she was innocent; and I do not understand why that subject was lugged into this case in the mode that it has been; nor do I understand why the counsel denounced the military commission who tried her, and thus indirectly censured, in the severest manner, the President of the United States. The counsel certainly knew when they were talking about that tribunal, and when they were thus denouncing it, that President Johnson, President of the United States, ordered it with his own hand; that President Johnson, President of the United States, signed the warrant that directed the execution; that President Johnson, President of the United States, when that record was presented to him, laid it before his cabinet, and that every single member voted to confirm the sentence, and that the President, with his own hand, wrote his confirmation of it, and with his own hand signed the warrant. I hold in my hand the original record, and no other man, as it appears from that paper, ordered it. No other one touched this paper; and when it was suggested by some of the members of the commission that in consequence of the age and the sex of Mrs. Surratt it might possibly be well to change her sentence to imprisonment for life, he signed the warrant for her death with the paper right before his eyes—and there it is, (handing the paper to Mr. Merrick.) My friend can read it for himself.

The counsel on the other side have undertaken to arraign the government of the United States against the prisoner. They have talked very loudly and eloquently about this great government of twenty-five or thirty millions of people being engaged in trying to bring to conviction one poor young man, and have treated it as though it were some hostile act, as though two parties were litigants before you, the one trying to beat the other. Is it possible that it has come to this, that, in the city of Washington, where the President has been murdered, that when under the forms of law, and before a court and a jury of twelve men, an investigation is made to ascertain whether the prisoner is guilty of this great crime, that the government are to be charged as seeking his blood, and its officers as “lapping their tongues in the blood of the innocent?” I quote the language exactly. It is a shocking thing to hear. What is the purpose of a government? What is the business of a government? According to the gentlemen’s notion, when a murder is committed the government should not do anything toward ascertaining who perpetrated that murder; and if the government did undertake to investigate the matter, and endeavor to find out whether the man charged with the crime is guilty or not guilty, the government and all connected with it must be expected to be assailed as bloodhounds of the law, and as seeking “to lap their tongues in the blood of the innocent.” Is that the business of government, and is it the business of counsel under any circumstances thus to charge the government? What is government for? It is instituted for your protection, for my protection, for the protection of us all. What could we do without it? Tell me, my learned and eloquent counsel on the other side, what would you do without a government? What would you do in this city? Suppose, for instance, a set of young men who choose to lead an idle life say to themselves that it is not right that some rich man living here should be enjoying his hoarded wealth, and they break into his house at night and steal therefrom. My learned friend would say, when you came to prosecute them for that robbery, “What! would you have this great and generous government of twenty-five or thirty millions of people pursue these poor young men, who merely tried to break into the house of one of your citizens and steal his money?” Should not this government be generous and let them go? Oh, yes! Let them off. Well, they are let off, and a few days afterward they break into the house of my friend Merrick for the purpose of stealing his money, when he, a brave man, undertakes to resist them, and in doing so they strike him down in death. Oh, generous government! with from twenty-five to thirty millions of people,

let the young men off. Why should a great and generous government with all its powers be pursuing the young men who thus murdered Mr. Merrick while attempting to prevent a robbery at his house? Why should the officers of the government be "lapping their tongues in the blood of the innocent?" Suppose this view as to the duty of a government were universally entertained, what would be the result? How long would your government last? How long would you hold a dollar of property? How long would the safety of your daughters be secure? How long would the life of your sons who stand in resistance to lust and rapine be safe? I have never heard such shocking sentiments uttered in relation to the duty of government from any human lips, or from any writer on the face of the earth. We have been told here that our government has nothing of divinity that hedges it about; that it is only the government of man's making. The Bible tells us that all government is of God; that the powers that be are ordained of God; and I can tell you, gentlemen, if such are the sentiments of this country that there is no divinity and no power of God that hedges about this government, its days are numbered, its condemnation is already written, and it will lie in the dust before many years have rolled by. No government that is not of God will last. It will soon come to naught. No other government ever did long exist. No other government can exist. Every government which is a government of the people is of God, and the powers that be are ordained of God. When you come together to the polls, and you elect as the ruler of this great nation a President, he is made so by the sanction of your votes, and in that act the voice of the people becomes the voice of God. I repeat, a government which is thus instituted is ordained of God, and it is as much hedged about as that of any King that ever reigned on England's throne. Is it possible that our countrymen will say that the government which we thus have made, which our fathers established, and which we are thus cherishing, has nothing of divinity hedging it about?

Does it rest alone upon human whim, without having anything sacred about it, and without any protection of the Almighty over it? If so, let me again repeat, its days are numbered; it will soon pass away. Once there was an empire in Rome. It was an empire which was in its day the greatest that the human mind had ever reared; but it did not believe, or rather ceased to believe, that there was a God who ruled; that government was of God; and they ceased to punish great crimes, such as treason, rapine, and murder, and it happened a very short time after they ceased to inflict punishment for such crimes—ceased to exercise the powers which belonged to government—that the Roman empire tumbled into ruins. It was trampled down by the barbarian, and now not a son of the Cæsars lives on the face of the earth, and not a descendant of a Roman matron exists anywhere in this wide universe. The empire perished, and crumbled into dust; nothing but its ashes remain. And thus will it ever be whenever a people cease to obey God, and cease to think that government is of God. Let us see what the Bible says on this subject; what views were entertained in the Old Testament, and what in the New.

Mr. PIERREPONT then read from 1 Samuel, chapter xv, as follows:

Samuel also said unto Saul, the Lord sent me to anoint thee to be king over his people, over Israel; now therefore hearken thou unto the voice of the words of the Lord.

Thus saith the Lord of hosts, I remember that which Amalek did to Israel, how he laid wait for him in the way, when he came up from Egypt.

Now go and smite Amalek, and utterly destroy all that they have, and spare them not; but slay both man and woman, infant and suckling, ox and sheep, camel and ass.

And Saul gathered the people together, and numbered them in Telaim, two hundred thousand footmen, and ten thousand men of Judah.

And Saul came to a city of Amalek, and laid wait in the valley.

And Saul said unto the Kenites, go, depart, get you down from among the Amalekites, lest I destroy you with them; for ye showed kindness to all the children of Israel when they came up out of Egypt. So the Kenites departed from among the Amalekites.

And Saul smote the Amalekites from Havilah *until* thou comest to Shur, that is over against Egypt.

And he took Agag, the king of the Amalekites, alive, and utterly destroyed all the people with the edge of the sword.

But Saul and the people spared Agag, and the best of the sheep, and of the oxen, and of the fatlings, and the lambs, and all *that was* good, and would not utterly destroy them; but everything *that was* vile and refuse, that they destroyed utterly.

Then came the word of the Lord unto Samuel, saying,

It repenteth me that I have set up Saul *to be* king: for he is turned back from following me, and hath not performed my commandments. And it grieved Samuel, and he cried unto the Lord all night.

And when Sammel rose early to meet Saul in the morning, it was told Samuel, saying, Saul came to Carmel, and behold, he set him up a place, and is gone about, and passed on, and gone down to Gilgal.

And Samuel came to Saul, and Saul said unto him, blessed *be* thou of the Lord; I have performed the commandment of the Lord.

And Samuel said, what *meaneth* then this bleating of the sheep in mine ears, and the lowing of the oxen which I hear?

And Saul said, they have brought them from the Amalekites; for the people spared the best of the sheep and of the oxen, to sacrifice unto the Lord thy God; and the rest we have utterly destroyed.

Then Samuel said unto Saul, stay, and I will tell thee what the Lord hath said to me this night. And he said unto him, say on.

And Samuel said, when thou *wast* little in thine own sight, *wast* thou not *made* the head of the tribes of Israel, and the Lord anointed thee king over Israel?

And the Lord sent thee on a journey, and said, go, and utterly destroy the sinners of the Amalekites, and fight against them until they be consumed.

Wherefore then didst thou not obey the voice of the Lord, but didst fly upon the spoil, and didst evil in the sight of the Lord?

And Saul said unto Samuel, yea, I have obeyed the voice of the Lord, and have gone the way which the Lord sent me, and have brought Agag, the king of Amalek, and have utterly destroyed the Amalekites.

But the people took of the spoil, sheep and oxen, the chief of the things, which should have been utterly destroyed, to sacrifice unto the Lord thy God in Gilgal.

And Samuel said, hath the Lord *as great* delight in burnt offerings and sacrifices as in obeying the voice of the Lord? Behold, to obey *is* better than sacrifice, *and* to hearken, than the fat of rams.

For rebellion *is as* the sin of witchcraft, and stubbornness *is as* iniquity and idolatry. Because thou hast rejected the word of the Lord, he hath also rejected thee from *being* king.

And Saul said unto Samuel, I have sinned, for I have transgressed the commandment of the Lord, and thy words; because I feared the people, and obeyed their voice.

Now, therefore, I pray thee, pardon my sin, and turn again with me, that I may worship the Lord.

And Samuel said unto Saul, I will not return with thee; for thou hast rejected the word of the Lord, and the Lord hath rejected thee from being king over Israel.

And as Samuel turned about to go away, he laid hold upon the skirt of his mantle, and it rent.

And Samuel said unto him, the Lord hath rent the kingdom of Israel from thee this day, and hath given it to a neighbor of thine, *that is* better than thou.

And also the Strength of Israel will not lie nor repent; for he *is* not a man, that he should repent.

Then he said, I have sinned; *yet* honor me now, I pray thee, before the elders of my people, and before Israel, and turn again with me, that I may worship the Lord thy God.

So Samuel turned again after Saul; and Saul worshipped the Lord.

Then said Samuel, bring ye hither to me Agag, the king of the Amalekites. And Agag came unto him delicately. And Agag said, surely the bitterness of death is past.

And Samuel said, as thy sword hath made women childless, so shall thy mother be childless among women. And Samuel hewed Agag in pieces before the Lord in Gilgal.

Then Samuel went to Ramah; and Saul went up to his house to Gibeah of Saul.

And Samuel came no more to see Saul until the day of his death; nevertheless Samuel mourned for Saul; and the Lord repented that he had made Saul king over Israel.

Mr. PIERREPONT then read from the eighteenth chapter of St. Matthew as follows:

Woe unto the world because of offences, for it must needs be that offences come; but woe to that man by whom the offence cometh.

* * * It were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea.

He also cited the first four verses of the 13th chapter of Romans, as follows:

Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.

Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation.

For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same:

For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil.

Such was the order in the times of this Book. All government is of God. The powers that be are ordained of God. Now, from whom come these words? Not from the Old Testament, but they come from the meek and lowly Jesus, the Saviour of the world, who died for you, for me, for all. It is true, as the counsel have said, that God is a God of mercy; but He says: "Though I am a God of mercy, I will by no means clear the guilty." Now, the counsel who has addressed you, you will remember, said in his speech, with great earnestness: "We have blood enough; let us have peace." The question before you, gentlemen, is not about blood; the question before you is not about peace. The question before you is whether you have not had murder enough, and assassination enough, and crime enough, to enable us to have at least once before a civil tribunal in this land a trial and a verdict. Not a single one of all those engaged in the conspiracy has been tried before a civil tribunal; and the question now is, have you not had enough of this murder, and enough of this assassination, to have at least one jury of the country say so, and to say that we will stop it? You and I have nothing to do with the consequences. All we have to do is to do our duty, and ascertain whether the man is guilty. You do not punish the man; I do not punish the man. I have not a feeling toward him of punishment, and you have no such feeling. The duty does not lie with you, nor with me. We have nothing to do with that. The question for us is to see whether this man is guilty of this violation of the law of the land as charged; and if so, to so declare; and then if, for any cause, the Executive sees fit to show leniency, he will show it. If he does not, he will not do it. It is not for you or for me to say what the leniency should be. It is not for you or for me to have anything to say upon that question. Our duty is, and the duty of the court is, to find out the truth, and to have you pronounce your verdict, under your oath, according to the facts as you find them.

There are one or two other things that I must notice before I come to the main question. One of these is in regard to the attacks which were made by counsel yesterday upon the learned district attorney. Have you seen anything in the conduct of the district attorney in this case that was improper? Have you seen anything but an earnest desire to discharge his duty? If I understood the counsel aright yesterday, he said that if he should stand in that place and should have done as the district attorney had, he would expect the women, as they passed him, to gather their skirts and pull them aside, lest they be contaminated by the touch. I did not at that time know why there was so much bitterness of feeling thus expressed, but I have been shown since last night this record called the "Rebellion Record," and I find in it that on the fifth of January, 1861, Edward C. Carrington, now district attorney, issued to the public a stirring letter calling out the militia of this District for the purpose of aiding in the protection of the government of the United States; calling upon them to rally; and they did rally at his call. The fact of this native-born citizen of Virginia, one of your own number and living in your midst, having thus early and patriotically taken the side in favor of his government, when even his own State had deserted him, of course would be likely to call down the greatest bitterness and hatred against this loyal and noble citizen on the part of a certain class. We have been told, gentlemen, by the counsel upon the other side, that the Judge Advocate General had done a great many wrong things in his life. We

have been told that the military commission which Mr. Johnson had established, and he alone, had done wrong things in their prosecution; and we have been told, likewise, that the Supreme Court of the United States had decided that this commission was illegal. Now, you would hardly expect an eminent lawyer to make such a statement unless he believed it. The counsel must have believed it, or he would not have made it. But he is wholly mistaken. No court in the United States has declared this commission to have been illegal. There is no such decision on record—not any.

Some of those very persons are now in confinement, and if the Supreme Court of the United States had declared the commission that tried them illegal, why should they now, in a time of profound peace, be kept in prison? If such were the case would not an application have been immediately made by the learned counsel for a writ of *habeas corpus* to release them? But nothing of the kind is done. And why? Because no such decision has ever been pronounced. No court has, and in my judgment no court will, pronounce this commission thus formed by the President of the United States to have been illegal.

Gentlemen, my belief in this case being that you honestly desire to get at the truth, and that you have no other desire, I propose to dismiss all these outside considerations and pass to the subject which is fairly before you. I have said but little compared with what has been said, and I propose hereafter to say even much less. I wish to lay aside all this rubbish and to pass to the solemn business of investigating the truth of the charge contained in the indictment. You will see whether I do it fairly or not. I shall not deceive you. I could not if I would. I do not know you as the other counsel know you. They tell you they know you. My learned friend the district attorney, in his speech, told one of the counsel that he knew him, and that he was an actor, and that his acting in the course of this trial would have done great credit if, indeed, it would not have surpassed that of Edwin Forrest. Well, I do not know anything about that, but I thought some of you looked as though you knew whether there was any truth in that remark or not. I do not know, but I think you will be able to determine between what is mere acting and what is stern reality; between a drama played upon the stage, and a truthful drama played in real life. I think you knew when witnesses came upon that stand, and you looked at them, who told the truth and who lied. You are men of business, and you are accustomed to see your fellow-men; to look into their faces; to deal with them, and to know their manner. There is a kind of instinct that goes out from the living witness who stands before you, and which leads you to understand whether he is telling the truth or not. You are not as accustomed to this thing as a lawyer, perhaps, but still you are accustomed to it in your daily transactions with men, and can tell from the appearance of the man whether he is telling the truth, or is not. I quite agree with the learned counsel when he speaks of the great advantages of having witnesses before you. I think you knew whether Dr. Bissell told the truth or not. I think you knew whether Cameron told the truth. I think you knew whether every witness that you listened to here told the truth; and I must say you did listen most carefully. You have conducted yourselves here like men who felt that they had a solemn obligation resting upon them, who felt that they had some responsibility as connected with this government; who felt that they had the peace and good order of society committed to their hands, and that this was a grave and serious business which they were called upon to discharge. I have wondered at the patience with which you have listened, and at the endurance which you have shown in this long and exhausting trial; and to me it does seem to foretell that when this case is over, truth will prevail and justice will be done.

Now, gentlemen, I come to some facts in this case about which there is no dispute. I propose to begin with the facts conceded on either side. I will, therefore, tread upon no debatable ground here, and at this point allow me to make one general observation. In the arrangements of Divine Providence in

this world, things are so ordered that one truth is in perfect harmony with every other truth. It is always so. From that there is no variation. God is a God of truth, and all the sin and woe on earth comes from a divergence from that line of truth that proceeds from His heavenly throne. If everything was truth there would be no crime. If all was truth there would be no wrong. All wrong comes from a violation of that great principle. When you violate the truth everything is out of joint, every truth being in harmony with every other truth. Every falsehood that is interposed dislocates and breeds mischief and injury to the community. It is so in the physical life. It is so in nature in every form. It is so in the moral world. Men are slow to believe this, but a little observation will show you how true it is. Even the clergy do not teach it as much as they should. You cannot violate a law of God without receiving punishment even on this earth. No man ever did do it; no man ever went to his grave, having violated a law of God, without having been punished for it, and no man ever will.

You all see that in the ordinary affairs of life. Mr. Alexander (a juror) gives a note to Mr. Bohrer, (also a juror), and when it falls due he fails to pay it. Bohrer knows he can pay it, but will not; therefore Mr. Bohrer resolves never to lend him any more money, and not only so, but remarks upon the bad faith of Mr. Alexander about town. In that way other people get to mistrust him and it is not long before Mr. Alexander discovers that he has no credit. That is the punishment Mr. Alexander gets for not paying his note after having promised to do so. He turned from a truth to a lie, and he is having his punishment meted out to him in the loss of his credit and position. This is a plain and simple illustration that we can all understand and appreciate. Again: You place your hand in the fire, and of course it is burned. You thus suffer the punishment of violating a law of nature. Then, again, you may take a poison. It may be a slow one, and therefore you may not at first perceive any effect from it, but the effect will come eventually. The froth from the mouth of the mad-dog may touch a broken spot upon your skin, but it may be twenty years ere you die from the effects of that touch. It does not necessarily follow that the effect will always be immediate, but you may rest assured the effect in the way of punishment at some time or other will follow violated law. That is the reason punishment comes. If the law of nature had not been violated it would not have come. The effect, in some instances, as I said, comes slowly; in others it follows swiftly. In the case of a man's failing to keep his word, he loses his credit. In the case of his cheating his neighbor he loses his credit. But there are more secret things than that. You may cheat your neighbor according to law, and you may be successful if prosecution is had. You may cover it up so that the charge cannot be distinctly made; but you may mark this as a certain truth, that if you are a bad man, and you are doing wrong to your neighbor, you know it, and some how or other you communicate that knowledge to a great many of your fellow-citizens who did not before know it. They feel, somehow or other, that they have no confidence in you, and in that way you are often punished for your secret crime. When you go before your fellow-men and look them squarely in the face your guilty eye tells it. I need not pursue this topic further. At some future time, when you think this over, I will warrant that the more you think of it the more you will believe it. You will find it is true, from the greatest to the minutest thing in this entire universe.

Now let us come to a truth which we have here fixed in the case. There is one fixed truth in it, and I say every other truth in the universe is in harmony with that truth. Here it is:

John Harrison entered his name in his own handwriting on the 18th day of April, 1865, in the register at St. Lawrence Hall. The man, the prisoner at the bar. As I said, we all agree upon this fact. Now let us start from this point, and with the principle I have stated acknowledged, that every other truth is in

harmony with this truth, let me ask what happened after this? He passed from the hotel; he took no meal in the house; he contracted no bill, but fled somewhere. I refer now, of course, to the prisoner. Where did he flee? He fled to the house of a man named Porterfield, and there for a few days remained in concealment.

Then two carriages came up, and dresses were prepared so as to have each man dressed exactly alike; and in the night time, when all was darkness, one man got into the carriage and drove one way, whilst the second one got into the other carriage and drove in a different direction. What did all that mean? What was it for? He was either fleeing because he had aided in the death of Mr. Lincoln in this conspiracy, or because he had not. Which was it? Was he fleeing because he had not? You will hardly say that. Then it was because he had. He had been engaged in something which made him wish to flee. Where does he next go after leaving Mr. Porterfield's? Why, he goes in that carriage in the darkness of the night to a little place called Libiore, to the house of Boucher, whom you saw upon the stand. He is a priest—a priest who has not done any honor to his honored church. In this connection it will be remembered that when this government was in pursuit of this prisoner, Cardinal Antonelli, even before the government ever made a request, hastened to deliver him up in consequence of the enormity of this great crime. This priest will hear from the Pope and from his bishop before he is a year older. As I said, the prisoner went to this priest's house, and was there concealed, the priest tells you, until the following July. Let us see why he was being concealed in the house of this priest, where his friends visited him, and where he was enjoying himself in hunting; where many, from day to day, came as his visitors; and what was going on in this city at that time. A reward had been offered for his apprehension—a large reward, both by the city and by the government, and there he stays in concealment. And what else was going on? His own mother had been apprehended, and was on trial for her life. Where was her son? Concealed, visited by these people. And why concealed? Has the counsel explained to you why he was concealed? Not at all. Why was he concealed? It was either because he was innocent or because he was guilty. Which was it? You will have to determine. Now let us turn a moment and see what was going on here during that time. The mother and the other conspirators were on trial. The proceedings were reported every day in the newspapers, and the entire civilized world were thus notified of what was transpiring and were carefully observing it. Did not he know about it? He was within thirty-six hours of this city and kept there concealed; changed the color of his hair, changed his garments, wore spectacles for disguise, was visited by his friends, who were traitors to his government.

Did not he know what was going on? Let us see whether he did or not. I hold in my hand a very curious little paper; and let me say here that I never knew a trial of great magnitude, and where there was fraud or crime, that these things did not appear. They always do. I knew they would before this trial commenced, and at that time I had never heard of this paper. What is it? Here is a paper with a mark and a cross before it. "S," "P" and then a "C," with a blank line between, and then the words "all right." "Toney," "No hurry." "G. A. Atzerodt," and addressed to Washington, D. C. Let us see what further there is about it. It is put into the post office in New York on the 15th day of May, 1865, soon after the trial of his mother and Atzerodt had commenced, and that trial continued, and the death warrant, the original of which I have here, was signed on the 5th day of July following. Yet he wrote that letter to one of his co-conspirators, and put it into the post office in the city of New York on the 15th day of May. Now they wanted to make some little question, I believe, about the handwriting. Gentlemen, here is the handwriting. I will show it to you. Here is the card that nobody denies. They are as much alike as any two things can possibly be. It is his own natural hand, and here

is the letter which all admit to be his own. Here is this card and here is this writing. They are exactly alike. The writing is not even disguised in the least.

Now, what did all that mean? You heard Boucher's account here. I shall come to that in the progress of the examination of the evidence. He says the prisoner staid with him until the latter part of July, after the execution of these criminals. Then what did he do? He took him, secretly, to the house of another priest, named La Pierre, who had discretion enough not to come here and tell the world of his shame. I tell you again that this priest, Boucher, will hear from his Pope and his bishop before he is a year older. The Catholic church never did sanction such a heinous crime as this; this is evident from the action of the Pope in this particular case, who hurried with unusual zeal to deliver up the fugitive in his dominions, although we had no treaty of extradition, the moment he heard that he was the one suspected of participation in this horrible crime. Well, he takes him up to La Pierre's, and there he is concealed, and concealed until when? He is concealed until the following September, receiving his friends, and amusing himself in the best way he could with safety to his life. In September, just five months after this murder, La Pierre takes him upon the steamer for Montreal, locks him up in a state-room, and takes him down, and from thence goes with him on board of the Peruvian, having first gone to Dr. McMillan, the surgeon of the ship, and told him he had a friend who was in some difficulty, and wanted to escape without his name being known. He is introduced to McMillan as McCarty, has on spectacles, and has his hair dyed. The steamer starts for the Old World, and now what happens? He had not been on that steamer thirty minutes after she started before he appeared startled, and looking around, says to McMillan, "that man is an American detective; he is after me." The wicked flee when none pursue; the righteous are as bold as a lion. He was not very bold, was he? He put his hand in his pocket and drew out his revolver, remarking, "but this will fix him." McMillan inquires, "Why do you think this gentleman to whom you refer is an American detective; and if so, why do you care?" Says he, "I have done such things that, if you should know them, it would make you stare." What were the things he had done? It is true he had run away from his mother; but good boys have done that before.

What were the horrid things he had done, which, if McMillan knew, would make him stare? Why did he startle at seeing an American detective, as he supposed, but who turned out to be a lumber merchant from Toronto? Why was he frightened whenever any one came near? He is innocent, they say. We will follow him on. Somehow or other, there was such a terrible burden weighing upon his heart that he could not keep it to himself, and he had every once in a while, for the purpose of unburdening his guilty soul, to go behind the wheel-house and talk to McMillan, (the only one he knew,) and from time to time to detail to him the scenes through which he had passed—those which left such a horrid impression on his mind. Criminals tell us that they always find relief in thus unburdening their heavy hearts. Most criminals, sooner or later, if they are not brought to justice, will return to the place of their crime, in very madness and torment at their guilty secret, and will tell all that they have done. They cannot retain it. When the prisoner got to old ocean, where only one whose name he knew was there, he could not help telling his awful secret. Now you know very well what it was. I shall come to what it was before I am done. He finally came to Ireland. When he came to Ireland, he hesitated whether he should land on the Irish coast, or whether he should wait until he got to Liverpool; and he consulted Dr. McMillan as to which he had better do. Says Dr. McMillan, "I cannot tell you which you had better do. You can do just as you please." He replies, "I will go to Liverpool." Finally, as they neared the coast of Ireland, while coming into the bay, McMillan found him unex-

pectedly upon the deck, with his clothes on and a little satchel in his hand, ready to depart. The prisoner says, "I have changed my mind. It is now night, and dark, and I have concluded I will land here in Ireland." What then did he do? He wanted McMillan to go into the bar-room and drink. It being late at night, the bar was closed, but they found the bar-keeper and had it opened. What did he then do? He takes tumbler after tumbler of raw brandy, until he is made so drunk as scarcely to be able to walk, and Dr. McMillan calls an officer to watch him as he passed over the gang-plank. Why was that? We have now got him into Ireland. He had not been in that country long before something seemed to whisper in his ear that this gallant land had no place for treason and for murder, and so he vanished. Where next do we see him? Next he wanders about muffled in the darkness of the night in Liverpool. He had not been there long before something seemed to say that England's air could not be breathed by treason and by murder; and again he fled. Where next do we find him? In Rome; away from his language, his country, his kinsmen, his all. He changes his name there to Watson. He enlisted in the Papal zouaves and went away from Rome. Was not he safe then? Oh, yes, to be sure, he is all safe. He is in the disguise of a Roman zouave, and he is ordered away to Veratri, far from Rome, where there are none that know him but those in his battalion. In that land all others are strangers to him. Now he is safe. Safe! God does not allow those who commit such deeds as his to be safe anywhere. It must have been an awful hour when he saw peering through the cap of the zouave the old familiar face of St. Marie, whom he knew in his school-boy days. Again I say, safety under such circumstances is not possible. God is wiser than that. What then happens? He walks down the road soon after, and says to St. Marie: "Let by-gones be by-gones. I want to save my life. I escaped from Washington in the disguise of an Englishman on the morning or night of the assassination, and I got away and am here." And this disguise of an Englishman, and the courier's bag of an Englishman which he carried, and the handkerchief, are subjects to which I wish to call your attention when I come to the specific evidence. I am now speaking generally of what occurred. Then he heard from the Vatican, in no whispered tones, that the States of his Holiness the Pope had no nook or corner in which treason and murder could be hid. In desperation he made a fearful leap at the peril of immediate death and escaped to Malta, and when he had reached that island in the Mediterranean sea, there something still haunted him and told him that there was no hiding place for treason and for murder, and from thence he vanished. Next we trace him into Egypt; that ancient of lands—the land of mystery and of eld, where the Pharaohs dwelt; where Joseph was a slave; where Moses lived; where by the power of devils and of God such miracles were wrought; where flows the wondrous Nile, upon whose banks are the grandest ruins of forgotten empire, and the pyramids, which are eternal; and there, even, the colossal sphynx, looking at him with her stony eyes, seemed to say, "what scourge for treason and for murder can this dark monarchy afford this traitor?" He fled no more. His knees smote together and his arms fell nerveless at his side. He resisted not at all. He gave himself up without a struggle; was placed upon a United States ship of war, and came over the long sea, and up the broad river to the city of his crime. Two years between the crime and the arraignment—two awful years. God grant that you nor your children may ever pass through such years as those. He is brought before the grand jury of your city, and is indicted for this crime. Now, this was the strange flight of an *innocent* man, as the learned counsel says, or rather argues it was. Now what do you think about it? Do you think that an innocent man would do those things? Do you think he fled because he did not engage in murder, or because he did—which? Let us see if we can unravel the mystery. It is certainly a mystery as it now stands—that an innocent man should thus flee. I think that we can get at it. What was it? Let us come back in the history of time a little.

You will remember that on the anniversary of that day on which the Savior was crucified, the President of the United States was murdered, and that Secretary Seward was assassinated. It is a day that will ever be remembered in the history of this country. The enormity of the crime sent a shudder through the civilized world. For no cruelty, for no oppression, for no wrong, but simply for his holy devotion to liberty and the service of his country, was he thus foully murdered. As you well know, the pathway of his youth was not smooth with dalliance and with luxury, but it was rough and stony, and thorny, with affliction and with toil. He had always been a man of sorrows, and his acquaintance with grief had left a deeper melancholy in his face than could be seen in any other. A few weeks before he died, you will remember, he uttered these remarkable words :

“Neither party expected for the war the magnitude or the duration which it has already attained. Neither anticipated that the *cause* of the conflict might cease with, or even before, the conflict itself should cease. Each looked for an easier triumph, and a result less fundamental and astounding. Both read the same Bible and pray to the same God; and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God’s assistance in wringing their bread from the sweat of other men’s faces; but let us judge not that we be not judged. The prayers of both could not be answered; that of neither has been answered fully. The Almighty has His own purposes. ‘Woe unto the world because of offences, for it must needs be that offences come; but woe to that man by whom the offence cometh.’ If we shall suppose American slavery is one of the offences which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war as the woe due to those by whom the offence came, shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him? Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bond-man’s two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said, ‘The judgments of the Lord are true and righteous altogether.’”

“With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation’s wounds; to care for him who shall have borne the battle, and for his widow and his orphan; to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.”

And earlier, before the boody sacrifice, he wrote to a poor woman who had sent all her sons to battle and to death, this short letter of condolence :

“EXECUTIVE MANSION,
“Washington, November 21, 1864.

“DEAR MADAM: I have been shown, in the files of the War Department, a statement of the adjutant general of Massachusetts, that you are the mother of five sons who have died gloriously on the field of battle. I feel how weak and fruitless must be any words of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering to you the consolation that may be found in the thanks of the republic they died to save. I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

“Yours, very sincerely and respectfully,

“A. LINCOLN.”

This, gentlemen, as I have already said, is a trial of one of those conspirators. It has this marked feature in it; it is the first judicial trial that has ever been instituted to try any of those conspirators. Our freedom-loving race and the sturdy blood from which we spring have always clung with exceeding fondness to liberty—to the right of trial by jury in a court of law, and they have always been jealous of military power. When the other conspirators were tried it was claimed that as the head of the United States army had been murdered in his camp, it was eminently fit that the trial of those conspirators should be held by military men. Many said that in the city of Washington there was so much feeling and sympathy for the rebel cause, there were so many enemies of our

country here, that the chances were that a jury would not be found among whose number there would not be some one or two in sympathy with the traitor and the assassin, who would prevent a verdict. That argument was used in favor of the military tribunal, instead of a trial in the courts of law. I am one of those who at all times, and upon all occasions, have insisted that the civil courts, with a jury of twelve men, were competent to the trial of these crimes. I have always believed it. I believe it now. It is for the very reason that I believe it that I stand here. I have always proclaimed it. I do not stand here, called because I belonged to the side of the republicans, for, as all know, I never did. The public office which I held was given me by democrats. The office which I now hold in the convention was from the democratic city of New York. I am called here because I believed, and because I ever insisted, that a jury of twelve honest men, when they find a man guilty, will say he is guilty; and that the court is competent to administer the law, and that the jury are competent and willing to administer justice. If you set at naught all my confidence, if you prove to the world that I am wrong, and that a jury of twelve men in the city of Washington will not find a man guilty of this great crime when he is proved to be guilty, then I will acknowledge that I have been mistaken, and bid farewell to the cherished dreams of my youth and of my manhood, which whispered that my country might continue to be free; for I know that no country can long be free that will not administer justice upon those who commit great crimes. Society will have protection; property will have protection; life will have protection; and if it cannot come through the civil tribunal, then every good man will hail the military. Then we will all join in saying that if our rights are thus to be swept away, let the useless ermine fall from the judge, let the sword write the record, and let the military commander execute the law.

I do not know what purposes the great Ruler of the world may have in this trial; but of one thing we may all be assured, that this is not an unmeaning trial. It is, as I have said, the only trial had before a court and jury of any of these conspirators. The whole civilized world is looking on. There is not a hamlet in this great country that has not already read the evidence. There is not a country in the whole of Christian Europe that will not soon have read it. The whole world is listening to it, and our enemies, the lovers of arbitrary power, would be delighted beyond expression if they could find that a jury in the city of Washington would not convict a criminal of this great crime when the evidence proved him guilty. Every lover of freedom, every lover of constitutional liberty, every lover of our free and blessed government is ready to fall upon his knees and pray that no such calamity may befall our country as to have a jury of twelve men, or one out of the twelve, refuse to find a man guilty when the law and the evidence say that he is guilty. In a great country like this, of course, there are a variety of interests. There are many men who feel hostile, the one toward one political party and the other toward the other. We have been through with a civil war which tended to inflame the passions. Congress, as you know, has recently been in session here, and just left. Of course, these great political subjects are topics of conversation. A great many men from interested motives, some from political motives, and some possibly from patriotic motives, are very anxious to remove this capital from its present place. They say it does not belong here; that the people are not in sympathy with this great government; that it is full of people who hate the government, and therefore they would like to see it removed. They would like any excuse in order to get it removed. A great many others desire to have it retained here. Those who live on the other side of the mountains would seize on any ground to take up this capital and move it over there, where it is more central; and what every such man of all things wants to be able to say in Congress, when they meet in November, is: "You see it is just as I told you. You cannot get justice in the city of Washington; a jury of the city of Washington

refuses even to find guilty the assassin of the President, who is overwhelmingly proved to be guilty. We will remove the capital far hence. We will take it to a place where a public officer can be safe, and where those who are in power may be relieved from the dangers of assassination, which they cannot be if a jury of the country say it is right." As I said, great issues hang on this trial, it being the first and only trial of the conspirators before a civil court and a jury of twelve men. Its responsibility and its magnitude cannot be over-estimated. The prisoner is guilty, or he is not guilty. Which is it? If he is not guilty he has been very badly treated. If he is not guilty he has been fleeing about the world in disguise to very little purpose. If he is not guilty your grand jury have done him a great wrong. If he is not guilty the Pope did him a great wrong when he thus surrendered him when he was not even applied to. If he is not guilty the whole world almost have done him a terrible wrong. How are you going to repair this wrong. It ought to be repaired. He ought to be paid high for all this great wrong if he is not guilty. He is guilty, or he is not. What I propose is, from this evidence under the law, to prove he is guilty. Now, if evidence proves anything, or ever did prove anything, it will prove it here; and what I propose is, when I come to the discussion of this evidence, not to give you my confident assertion about what is evidence, but to read it to you, that those who shall ever take the trouble to read this speech of mine shall find in it the evidence on which I rely, taken from the book, word for word; and it will be read, and this whole civilized world will give its verdict upon that evidence. It is upon that evidence that I shall ask your verdict.

We have lately, as you know, acquired possessions from Russia. Suppose you and I go out there after this trial is over, to make an exploration, and as we are going through the forest, we find a baby wrapped in a blanket. What would the inference at once be? It would be that the baby came there by some human hand. It would be that it had a father and a mother. It would be that it was wrapped in the blanket from the tender care of a human being. You would have no doubt about it, would you? Would you want me, when I came back and was telling to an audience what Mr. Todd and I had seen there, to prove that the baby had a father and a mother, or that the blanket was wrapped around it by some human being, from tender care? It is one of those things, you would say, we know, and not a thing to be proved. It is true that the Rev. Mr. Stephen F. Cameron might swear, in his imaginative way, that he had seen these babies growing out in that country, like toadstools under a tree, (laughter,) but you would not believe it. And although Bissell should come and swear that he had seen the spiders weave the blanket in which the child was wrapped, you would not believe it. You would judge as to the truth from your experience and your knowledge of the laws of nature. And why? God hath given us reason and intuition by which we arrive at conclusions, and by which we know a thousand things which are not proven, and which are not to be proven.

They form our judgments when we come to weigh the evidence, and determine our minds as to whether we believe or do not believe the thing presented as a fact. For instance, you may take this tumbler, which I accidentally broke; you see its bright edges where it was broken; you did not see it broken, but I did. I know that piece came from this piece; but when I put that to this, (putting two pieces together,) there you see that every blister in the glass, and that every part of it exactly fits. You know that part came from this part as well as I know it; you do not need any other proof; it is demonstration. No human hand, no skill or Chinese art, can cut the glass and mark the little blisters and little veins you here see so that the one shall as exactly fit the other. It is not in human power to do it. Nothing short of Almighty power can perform that feat. It is proved. There you see in the bottom something of a whitish color. That tumbler we will suppose to have been found off in a rubbish heap

behind the house. Well, what of that? Nothing more than that the owner of that house died about three months ago, and he was suspected of having been poisoned.

There was not any proof of it at all; no proof could be had. His loving wife had gone through deepest weeds to his grave, and wept most profuse tears over the spot. She had not poisoned or murdered her husband; of course not. The same day they find, while engaged in the investigation to discover who was the guilty party, in a rubbish heap this glass with a little powder at the bottom of it. The physicians and the chemist examine it and they tell you it is arsenic. Well, what of that? That does not prove that the man's wife murdered him, surely. Let us go a little further. There is the broken glass. There is the arsenic at the bottom. But that does not connect it with anybody. It happens, however, that a negro servant, in the chamber where the sick man lay, is moving a bureau, when she finds that piece of glass (holding up a piece of the tumbler to view) behind it. Well, what of that? That does not prove anything; it is a perfectly clean piece of pure glass. There is no poison about that—none. She shows it to my friend, Mr. Carrington, the district attorney. She merely finds it there while she is working about the premises; but she remembers that on a certain day when she was moving back that bureau, that a tumbler fell there, and a piece was broken from it. What did she do with the tumbler? She says: "Well, I gathered it up and I threw it away; but I do not know where." We take this piece of glass that was found behind the bureau, and we put it alongside of this tumbler that I hold in my hand, and we find that one fits the other. There is no proof about it except the edge and the fitting. Do you doubt it was broken from it? Would you, if you were trying the case, have much doubt that this was the tumbler which stood on the bureau, and from which this piece was broken when the servant turned it over and it fell, and which had in it the arsenic? And when you find the arsenic in the man's stomach and inquire into the motive that led to his death, don't you think you have traced the murder to a demonstration by those two little things? You cannot get rid of it. You have got the proof of it; you cannot help coming to such a conclusion. Your mind cannot doubt it if it tries. Those views relate to physical science merely. Let us now come to the moral. You will find that just as certain and just as capable of demonstration to the human mind as the other. Judging what we know from our intuition and from our reasoning, we are aware that men having no motive to speak otherwise will speak the truth. You know that when you are going up the street and you ask a man, "Have you seen the President pass in his carriage?" he will tell you yes or no, as may be the fact in the case, unless he has some motive to tell a falsehood. That we know from our daily experience. We know that all men tell the truth unless they have some motive to falsify. Sometimes it is a motive of telling a story; sometimes it is from malice; sometimes it is to clear one's self from a crime; but as a rule we know men tell the truth. We know when witnesses are called upon the stand, having no other motive than to tell what they know, that they will tell the truth. That is our experience. It is the only way you can try any cause, and it is the only way you can recover a debt. It is the only way you can decide anything in human affairs. It is on the great fact that men as a rule tell the truth that we build up everything in our system, and that we get information one from the other, day by day, and act upon it. Further, we all know that a woman will never desert her child unless she has some great motive for so doing. We know that a son will never tear asunder all the ties he owes to his mother, to his sister, to his brother, to his country, to his native land, and to his government which protected him, without some great motive. That we know. We do not need to have it proved. I do not need to say anything on this subject further than to simply state the facts to you as they exist. We know that the father will protect his child. We know that he will give

his fortune to save him from infamy. We know that he will do anything to protect his daughter. He will give his money, his liberty—yea, often will he give his life, and willingly give it. When you find a father cruel to his son, or a son deserting his mother and sister in time of great peril, and in time of their direst need, you know he does not do it unless some great and terrible motive impels him to do it. That we all know. Then we undertake to discover what that motive was which led to such an unnatural act. That is an honest, fair way of reasoning, as you will certainly say, and of judging of human actions. We know, gentlemen, several other things that need not be, and never are, proved in a court of justice. We know that it is not possible for a man to be in two places at the same time. You know that a man cannot be in Elmira and in the city of Washington on the same day, or, at any rate, the same hour of the same day. You know he cannot be in Burlington and be in Montreal at the same moment; that does not need to be proven. You know that when a man has motives such as the desire to save his life, that he will resort to any means to accomplish his end. You know that he will swear to any falsehood, that he will make up any evidence, and you know that one of the most common things, if you have ever read much of proceedings in courts, is to attempt to prove an *alibi*. As has been justly said by all the writers upon the subject, it is one of those things most easily forged of any defence that is ever attempted. It grows out of the fact that it often happens that honest witnesses prove an *alibi*. They are honest about it, and the facts they state are facts. The only thing that differs is the time. You will remember the great case of Webster, to which attention has been called; that when Professor Webster was tried in Massachusetts for the murder of Dr. Parkman, a number of the most respectable citizens of Boston swore to an *alibi*; that they swore to it circumstantially. They swore to seeing him in a particular store where they had gone for a particular purpose. They looked at the books and found the charges made at the time it was stated, and all the circumstances seemed to conspire to prove that he was in a different place from that alleged. It is quite possible that many of you can recall your own reading of that great case. I well remember that I believed at the time that he was innocent; that belief arose from the fact of so many respectable persons, men and women, of Boston, swearing positively to the fact of his being in another place at the time of the murder. The jury, however, who saw and heard the witnesses, and were made aware of all that transpired, found, without hesitation, that he was guilty, and he subsequently admitted his guilt and told all the circumstances connected with the murder.

In a case which I read to the court to-day, the author says: "An unsuccessful attempt to establish an *alibi* is always a circumstance of great weight against a prisoner, because the resort to that kind of defence implies an admission of the truth, the relevancy of the facts alleged, and the correctness of the inference drawn from them; and where the defence of *alibi* fails, it is generally on the ground that witnesses are disbelieved and the story considered to be a fabrication."

It is the easiest thing in the world for a man who is anxious—and especially where the question is one of life and death—to bring himself to believe that he saw the man on a day other than the one on which he really did see him. He did see him, we will suppose, and he saw him on a particular day, but it is necessary for the defence to show that he saw him on the following day. In regard to that he is not sure. He says: "I am not positive. I know I saw him about that time; at least a man that looked like him. I did not know him." "Yes, but don't you think it was the day after?" "Well, I don't know; it was within two or three days of that time." "But this is a question in which a man's life is involved. Don't you think it was the 15th you saw him?" "I don't know; it was the 12th, 13th, or 15th; I cannot tell which." "Don't you think it was the 15th?" "I am not sure about that." So, a witness, by being thus interrogated, and being urged to think the matter over in connection with a particular

date, might finally bring himself to believe he saw him on the day named by counsel. He says to himself: "Any way, it is not swearing against a man's life, and if I am mistaken, it is only in favor of his life;" and finally he says, in reply to the earnest inquiries of counsel, "I think I may say it was that day."

The learned counsel on the other side have told us, in the progress of their argument, that they could not subscribe in the least degree to the doctrine that it was a higher crime to conspire against the government of the United States, and through that conspiracy commit a murder upon the person of the Chief Magistrate, than it was to murder the humblest vagabond in the street, or words to that effect. Now that is not the doctrine of a statesman; it is not the doctrine of the Bible; it is not the doctrine of the law. It is a far more heinous crime to conspire against the government of the United States and to murder its President for the purpose of bringing anarchy and confusion on the land, than to murder a single individual. It is because its consequences are so much more terrible. It is because it is involving the lives of hundreds and of thousands. It is because it is involving considerations affecting the stability, the protection, the life, and the liberty, it may be, of a nation. The law of England, which I have cited, but which it would seem my friends have not read, lays it down, and without a statute, but as the common law, that it is "a crime of such heinousness as to admit of no accessories." They, however, undertake to say that the crime of the murder of the President of the United States in time of war or great civil commotion is not as heinous a crime as it would be in England to murder the chief of their country; and that there is no divinity about our government. What is its origin? All government is either of God or the devil, and they will have to take their choice. I say that government is of God, and that no other government will stand. What says the civilized world upon this subject? I wrote a note to the Secretary of State two days ago, asking him to send me the letters that were transmitted from the different governments of the civilized world upon the subject of this murder, and what do you think he sent me? He sent me the note I hold in my hand, and with it this large printed volume. It takes every line and word of that book, a book of 717 pages, closely printed, to contain the letters of condolence that were written to this government from the foreign governments of the world. Entire Christendom wrote, entire Christendom looked upon it as one of the most horrible of crimes—one that required every nation, even to the Turk, to write for the purpose of expressing their abhorrence of the crime. And, gentlemen, I hold in my hand the original paper, sent by some 13,000 rebel prisoners, and our prisoners, at Point Lookout. Here is the paper in which these rebel prisoners passed their resolutions of condemnation, and their curse upon this crime. I would try this case before any twelve of those rebel prisoners, and feel certain of a verdict; and yet the gentlemen tell us this murder is like that of the commonest vagabond that ever walked the street, and the crime no higher. Not so thought the rebels; not so thought any honorable man in arms against us; not so thinks any right-minded man on the face of the earth.

The court here took a recess for the space of half an hour.

AFTERNOON SESSION.

MR. PIERREPONT resuming, said: I pass, gentlemen, from all these general considerations now to the evidence in this case. As I have already said, I do not know you as the other counsel know you; but I do believe that you wish earnestly and honestly to know the truth in this case. I do not believe you will be influenced by any mean or selfish motive in your decision. I believe you are far above all possible considerations, except these great considerations which should weigh upon you in this case. I pass from what I have said to the investigation of the evidence. You know, gentlemen, there are classes of men who are called experts; we have had them upon the stand here in the investigation of this

case. We have had them for the purpose of determining handwriting. An expert who is skilled is able not only to determine handwriting when it is disguised, but the handwriting of another by comparing it with that which is known. It is a very curious fact in our history—a discovery which science and especially the investigations in law have made—that no man can disguise his hand. He may in a few letters or a few words, but he cannot write any considerable number of words and disguise his hand or forge another's. And it is on that principle and without your thinking much about it that we are enabled to do business at all. Checks are constantly coming to the bank to be paid; receipts are given for debts due; and letters are written and book accounts are kept, all depending on this great principle that a man has a handwriting peculiar to himself; it is as peculiar as his face; it is as certain as his expression; he can no more disguise it than he can disguise his walk from those who are acquainted with him or who watch him. He may disguise his walk for a few steps, but he cannot long; and he cannot disguise his handwriting if he will write a page. And another thing no mortal man can do—no mortal man can twice write his name alike. There is no man on the face of the earth who ever did or ever can do it. You may write your name ten thousand times and examine them, and there are no two of these signatures which you can place one over the other and exactly fit. That is as well ascertained as any fact on the earth; so true is it, that when we find one signature that will exactly lie over another in height, length, and every possible respect, we know it to be a forgery. I repeat it, you cannot disguise your hand from one who is familiar with it and expert in it; and you cannot disguise your walk for any considerable length of time, nor can you disguise your voice. It was attempted by this prisoner to Hobart. The walk is often attempted to be disguised, and the handwriting to be disguised, as in the case of Booth, but we know well, any expert who has had any experience knows well, that it cannot be done.

And the same is true in other things. You know your various callings and business, connecting with cloth, fur, iron, gold, silver, or whatever may be your calling, none of which I know anything about. Yet in your varied callings you are experts in your goods and wares, and whatever you are doing you can tell in a moment things that I can tell nothing about. I don't know where the goods come from. I don't know whether the sable brought up to be sold to my wife at an expensive price is covered by dye or is a real and natural one. The furrier knows and can tell in a moment. The watchmaker can tell whether the watch presented is a false or a true one. I can tell you nothing about it. In the city of New York in the assistant treasurer's office—and I believe they have a similar one here in Washington—there is an expert in coin. You can take a basket full and pour it out on the counter. He will pass them through his hands with wonderful rapidity, and in every instance detect the base coin. He has been there twenty years, as is well known in our city. So in the bank, the expert knows the false from the true note in a moment. So in China, where silver is valued not in the shape of coin, but as to the fineness of it, they can tell by the touch. Men devote themselves solely to that business. And so you have in all the various callings, men who from experience or natural fitness are experts in a particular thing to which they give their attention.

Now, it never seems very much to have occurred to people that there are experts in relation to moral questions just as much as in relation to physical science and matters of sight.

But it is just as true, and it is just as easy; and I undertake to say that any lawyer who has practiced law for twenty years, and who is not an expert in detecting the false evidence from the true when he sees a witness's eye and hears his voice, and observes his hesitation and his manner, his consistency or inconsistency, if he cannot select the true from the false, he had better take some other calling. He is not fit for that business. No lawyer who has had an ex-

perience of twenty years, who has had any moderate success, can fail to know, when a man goes on the stand, whether he is telling the truth or whether he is telling a falsehood. He cannot utter five sentences before, in his manner, in the inconsistency of his words, and a thousand other ways which cannot be told, but which you feel, you know whether he is telling truth or not.

Gentlemen, I shall endeavor now to apply some of these principles. I have been talking about the general evidence in this case, and I now come to the positive evidence. I had occasion to remark, I think, to the court, in arguing a legal proposition, that it was always, in a case of murder, proper to look at the position of the parties who are charged, and consider the evidence, for the purpose of coming to a reasonable conclusion as to whether the thing was done or was not done; as to whether the man committed the crime or did not commit it. We are to look and see the motive, and whether the thing done was contrary to the natural course of human events.

In March, 1863, Mrs. Surratt was keeping a tavern at a place called Surrattsville. I believe the villa consisted in the tavern. Her husband had died in 1862, and there were left the son Isaac, the daughter Anna, and the prisoner at the bar. His counsel tells you, as all the facts show, that they were poor; they had but little means. And in the autumn of 1864 they moved to the city of Washington, to 541 H street, and opened a boarding-house. Her eldest son was in the rebel army in Texas. Her other son was a man full grown, who came to this city with her, and was not in employment in November, 1864, when she opened the boarding-house. Now let us see, at this time, what were the sentiments of the family in relation to this subject, which afterward became an object of hostility and vengeance and of murder. I read from the testimony of Tibbitt, at page 179 :

I heard her (Mrs. Surratt) say she would give any one a thousand dollars if they would kill Lincoln.

He states that her son was present. He states further these words :

Whenever there was a victory I have heard Surratt say the d—d northern army and the leader thereof ought to be sent to hell.

That was in 1863. In March, 1863, Herold, who was one of these conspirators, and is admitted to be, was with John Surratt at Surrattsville, and is one of his acquaintances. In 1864 John Surratt was at Piscataway church, where he meets the same Herold, and in December, 1864, John Surratt was at the National Hotel with Dr. Mudd and Booth, at room No. 84. Mudd was an old acquaintance, and Booth was a new acquaintance. And this was Surratt's first introduction to Booth. To this I want to call your attention. I propose to show you from this evidence—and I have given it some attention and time—when Surratt first became acquainted with Booth; the time when he was first drawn into this conspiracy, and to trace it, date by date, by evidence which cannot lie, to its final consummation. I read from page 471 :

A. In the winter of 1864-'65, I was invited one evening by Surratt to take a walk with him down the street. We left the house and walked toward Seventh street, and went down Seventh street. Just as we were opposite Odd Fellows' Hall, somebody called "Surratt, Surratt." I said, "John, there is some one calling you." He turned, and as he turned, recognized Dr. Samuel Mudd, an acquaintance or his, from Charles county, Maryland. He shook hands with the doctor, and then introduced him to me. Dr. Mudd then introduced his companion, as Booth, to both of us. After the etiquette consequent on such occasions, Booth invited both of us to his room at the National Hotel. Arriving at the room, Booth requested us to be seated, rang the bell, and had the servant bring drinks and cigars to the room for the four gentlemen assembled. I made some remark about the appearance of the room; Booth said, yes; it was a room that had been occupied by a member of Congress.

Q. Do you know the number? A. The number of the room at that interview was 84. Booth took down some congressional document from the secretary, and remarked what a nice read he would have to himself when left alone.

Q. Was Dr. Mudd still there? A. Yes, sir. After a little conversation Dr. Mudd arose, went out into the entry that led by the room, and called out Booth. They did not take their hats with them; they did not go down stairs, because if they had done so I should have

heard the noise of their footsteps. After five or six minutes they returned to the room, and John Surratt was called out. The three then remained in the entry for several minutes, and came back again. Dr. Mudd then came over to me where I was sitting and remarked: "Weichmann," said he, "I hope you will excuse the privacy of the conversation; the fact is, Mr. Booth has some business with me; he wishes to purchase my farm in the country, but he does not want to give me enough." Booth also came to me and made an apology to the same effect, saying he did intend to purchase lands in the lower part of Maryland, and that he wanted to buy Dr. Mudd's farm. I was then seated on a sofa near the window. Booth, Dr. Mudd, and Surratt then seated themselves round a centre table in the middle of the room, about eight feet from me. They then began a private conversation, audible merely as to sound. Booth took out from his pocket an envelope and made marks on the back of it, and Surratt and Mudd were looking intently at him. From the motion of the pencil I concluded that the marks were more like roads or straight lines than anything else. After about twenty minutes' conversation round the table, they rose, and Dr. Mudd then invited us around to the Pennsylvania Hotel, where he was stopping. Arriving at the Pennsylvania Hotel, I sat down on a settee and talked with Dr. Mudd. Booth and Surratt seated themselves around the hearth, and talked very lively there, Booth showing him letters, and Surratt evincing a great deal of glee. About half past ten Booth got up and bade us good night. We left a short time after, Dr. Mudd stating that he was going to leave town next morning. On going home, John Surratt remarked that that brilliant, accomplished young gentleman to whom I had been introduced was no less than J. Wilkes Booth, the actor. When I first met Booth on Seventh street I did not know that he was an actor at all. I had seen him several times on the stage, but I did not know that he was J. Wilkes Booth, the actor. I knew when he told me so. He said that Booth wanted to purchase Dr. Mudd's farm, and that he, Surratt, was to be the agent for the purchase of that farm. Some weeks afterward, when I asked Mrs. Surratt what John had to do with Dr. Mudd's farm, and whether he had made himself an agent of Booth, she said: "O, Dr. Mudd and the people of Charles are getting tired of Booth, and they are pushing him off on John."

Now that is the first time Surratt met Booth, and his drawing of the farm probably suggests to you what it suggests to anybody. There was not any purchase of a farm; no such thing was ever intended. There is not a particle of evidence that there was any such purchase. If it had been about the purchase of a farm, they would not have taken so much pains to make Weichmann know it. When men are engaged in something they wish to conceal, they are always careful, and often betray themselves by their extreme care to disguise what they wish to do. It would have been no matter whether Weichmann knew what they were doing or not, if that had been their real business. It needed no excuse, concealment, or explanation if it had been the truth. It is not likely it had any truth in it. The lines they were drawing were for another purpose.

This you well know, gentlemen, was in December, 1864. And now let us look at another matter, and a very important one, which soon follows. I read from the testimony of Dunn, of Adams Express office. He says he was cashier:

Q. Will you state what occurred on or about the 13th of January following? A. I did not fix the date; I only say that he was in our service in that office close to the neighborhood of two weeks. It won't vary more than a day or two of that, one way or the other.

That we prove by the cashier, you remember. He went there on the 30th day of December.

Q. Tell the jury what occurred at the end of two weeks? A. He came into my office, and applied to me for a leave of absence.

Q. What did he say? A. I expressed my astonishment that he should apply so soon after taking his position, and he gave as a reason that his mother was going down to Prince George's, and he wanted to accompany her as her protector.

Well, that was no more true than the story about Dr. Mudd's farm, and it was told for the sake of concealment.

Q. What did you say as to his going with his mother to Prince George's, as her protector? A. I told him that I could not consent to give him the leave of absence he wanted; that he had been there but a short time.

Q. What then occurred? A. He left the office and went back to his work. The next morning a lady called in the office. She introduced herself as Mrs. Surratt, the mother of the young man of that name in my employ.

Q. What did she say? A. She asked that he might have a leave of absence to accompany her to Prince George's county, where she had urgent business.

Q. What did you say to that? A. That I had no reason to change my mind; I had answered her son's application the day before, and I could not give my consent. She still urged her application, and I told her it was impossible for me to yield; that her son could go without my consent, if she and he so determined; but if he did he could not return to that office.

Q. What then occurred? A. She bade me good morning, and left the office.

Q. What did he do? A. He left the office the same day.

Q. Did he ever come back? A. No, sir.

Q. Did he ever come back for his money? A. No, sir.

Now let me show you a little in this connection. The counsel, Mr. Merriek, will understand what I mean by a chain of evidence. There is a little piece of paper here found in Booth's pocket. It is in Surratt's handwriting, and reads: "John Harrison Surratt. I tried to get leave, but could not succeed."

He did take it, and immediately wrote to Booth. This is no magic chain, my friends.

Now, I call your attention, gentlemen, to what further occurred in this same connection, and I refer you to the testimony of Mr. Martin, of New York. He was very anxious to have it appear that he went to Richmond, at the time he went, on business; that he went with the knowledge of the President of the United States. He had a right to give that statement, because it seemed to compromise him, and he gave it on the stand, as you remember. He was down at Port Tobacco on his way to Richmond. It was in connection with getting out cotton. You will remember there was a time in the progress of the war in which it was thought wise by some members of the government to get out all the cotton and tobacco that could be obtained from the south. I believe the President entertained that view. This gentleman says, that although the President did not give him any written permission, he gave him to understand that he did not object if they could get it out of the confederacy, with certain conditions. I believe military men generally, and General Grant particularly, were especially hostile to any of this trade existing between the two parts of the country, thinking it tended to retard the progress of our armies. Mr. Martin was down there, and let us see what he says:

A. While in Port Tobacco, I remained for ten days, in order to get an opportunity to cross the river. I employed a man by the name of Andrew Atzerodt, and paid him to make some arrangements for me to cross the river.

Q. Was that his full name? A. I do not know; he went by that name.

Q. Was his name George A.? A. I presume so; he went by the name of Andrew.

Q. There was no doubt about the other name being Atzerodt? A. I think not. I heard his name, and recollect asking him once if it was a Russian name. He tried to make arrangements for me to cross, and went down the river several times. I paid him for his trouble, and finally abandoned the idea and left there. I did not cross there at all.

Q. What time was that? A. About the 10th of January, 1865; from the 7th to 15th.

Q. Who else did you see there connected with this conspiracy? A. I saw Surratt there on one occasion.

Q. Tell what you know about it; what was said or done. A. I had no particular conversation with him. I was introduced to him. He did not refer to his business, and I do not think I did to mine. On one evening after dark a man told me that a party was just about to cross over. I said I would like to be introduced to him. He said he would do so. In probably fifteen or twenty minutes he came in and said he was mistaken; that they were not going to cross. During the evening I was introduced to Surratt. No particular conversation passed between us. I may have told him I was going to cross the river. I think I did. I remained that night. The next day when he came in to supper he had on his leggings. I asked him if he was going. He said he was going back to Washington; that he was employed in the Adams Express office; that he had three days' leave of absence; that his time was nearly expired, and that it was necessary for him to start back that night.

In all of which there was not a word of truth, as you know. He never had any leave of absence at that time, and he told that story for the purpose of concealment, as people will when they are engaged in an unlawful purpose. The pains they take is often one of the means of their detection.

Q. State whether you saw him and Atzerodt speak together. A. I am not positive whether I saw them speak at all with each other.

Q. Did you see them after that day? A. I did not see him after this conversation at the supper table, and have not seen him since till I saw him here.

Q. Did you see Atzerodt afterwards? A. Yes, sir. I remained two or three days and tried to get across. I saw him there all the time I was there.

Q. Did you see him on the other side? A. Never.

Q. Did you see either of them on the other side? A. I never saw or heard of either of them on the other side.

Q. Did you see either of them at any other place, at any other time, that you remember of? A. I did not.

Then a little further :

Q. You had other conversation with Atzerodt, did you? A. I did the night Surratt left there. I was losing confidence in Atzerodt. I thought, although I had been paying him tolerably liberally, that he had been throwing off on me. I staid up pretty late that night. He came to the hotel about 11 o'clock. I accused him of intending to cross over that night with other parties; told him that I had been paying him all that he had asked, and that I must cross by the first boat. He denied that anybody was going to cross that night. I reiterated the charge that I had made of duplicity on his part. He then made this explanation: He said no one was going to cross that night, but on Wednesday night a large party would cross, of ten or twelve persons; that he had been engaged that day in buying boats; that they were going to have relays of horses on the road between Port Tobacco and Washington. Said I, "What does this mean?" He said he could not tell. After a moment I said I supposed that confederate officers were to escape from prison, and that he had made arrangements to cross them over into Virginia. He said: "Yes; and I am going to get well paid for it."

Well, there was no truth in that. What do you suppose was the purpose of those relays of horses? What do you suppose Surratt came back to the city of Washington for in the night? To Adams Express? He never had any leave of absence from there, and he never went back there. He told Booth he could not get leave, and he did not get it.

I now come down in the order of dates, and there is a power of logic in dates you cannot resist. People would like to resist it if they could, but they cannot. When the sun rises in the east to-day, it goes over and sets in the west to-night, and as it rolls over it stamps a record which no crime can ever wipe out. A good many men would like to erase it, or change some figures in it, but when it goes down in the night, it stamps it eternally. Now let us see, in the order of dates, what next occurs. I hold here the register of the Maltby House, Baltimore. On the 12th day, I think, of the same month, you will see here entered the names of "Louis J. Weichmann" and "John Harrison Surratt, Washington, D. C.," room 128; both in the same room. There it is, (pointing to the entry,) both in their own handwriting, written on that day in Baltimore—"Weichmann," "Surratt"—within three or four days after Surratt left Port Tobacco. Now what does all this mean, except that it is one of those little links in the chain which binds truth to truth; one of those things which show what I have already said, that every truth in the universe is consistent with every other truth? Now let us see what is the next truth:

Q. Look at the book now shown you, (book exhibited,) and tell the jury what book it is. A. This is the register of the Maltby House, Baltimore, Maryland.

Q. Please look under the date of that register of January 21, 1865, and state what you find there? A. I find my own name and the name of J. Harrison Surratt registered there on the twenty-first of January, 1865, as occupying a room, No. 127.

Q. The same room? A. Yes, sir.

Q. Whose name is first entered? A. My name.

Q. In whose handwriting is it? A. In my handwriting.

Q. Whose name is next entered? A. Surratt's.

Q. Is it in his handwriting? A. It is.

Q. Will you state whether or not those names were actually entered on that day by you and Surratt? A. They were.

Q. Did you occupy room No. 127? A. We did.

Q. What time in the day did you reach Baltimore? A. On the evening of the 21st of January. It was on a Saturday evening.

Q. At this time did you know Payne? A. No, sir; I had never met him.

Q. Nor Wood, as he was afterward called? A. No, sir.

Q. Will you state what occurred while you were there? Give it in its order of time. First I will ask you if you know, of your own knowledge, whether Payne was boarding in Baltimore then? A. No, sir; I do not know, of my own knowledge.

Q. Now proceed to state what occurred while you were there. A. On the morning of the 22d Surratt took a carriage and said he had \$300 in his possession, and that he was going to see some gentlemen on private business, and that he did not want me along.

He had not got his \$300 from the Adams Express. He has not any of it yet. He had \$300 with him. He took a private carriage and went to see somebody he did not want Weichmann to know. Now let us see who that somebody was. Weichmann was asked if he saw Payne there. No, he had never seen him. He was asked whether he knew he boarded there. No. Somebody else did, though. I read you now from the testimony of Mrs. Mary Branson, a widow woman who came upon that stand from Baltimore :

Q. In 1865, where did you live ? A. I lived at No. 16 Eutaw street, Baltimore.

Q. Did you see, while the trials of the conspirators were going on in Washington, a man called Lewis Payne ? I. I did.

Q. Will you state whether, in January, 1865, and for some time after that, this same man Payne boarded at your house ? A. He boarded at my house in January.

Q. How long did he continue after January ? A. He staid with me about six weeks.

Q. Did you know where he went then ? A. I did not.

There is another link in this chain, and that is not a magic chain. He was boarding there ; he came after that to Mrs. Surratt's house, and this meeting with him in Baltimore was for something. I do not undertake to say, I am going to leave it to you to say, what you think it was about. This is Payne, who was one of the conspirators ; Payne, who attempted to assassinate Secretary Seward ; and Payne, who was taken into Mrs. Surratt's house afterward. I next read in this same line of date from page 374 :

Q. Did Surratt name to you then, or at any subsequent time, the name of the person who kept the house where he went ? A. No, sir.

Q. When he came back, which you say was 3 o'clock, what occurred ? A. I returned home that evening ; whether he returned with me or not I do not know, but it is my impression that he did not. I think I left him in Baltimore.

Q. You returned that evening ? A. Yes, sir.

Q. At Mrs. Surratt's house, at this time, where was your room in the house in relation to Surratt's room ? A. Well, Surratt and I were so friendly and so intimate with one another that we occupied the same room.

Q. How about the bed ? A. We occupied the same bed.

Q. Did you ever see Atzerodt ? A. Yes, sir ; I met Atzerodt about four weeks after Surratt's first introduction to Booth, and about a week or ten days after Surratt returned from the country, in the early part of January, 1865.

Q. From Port Tobacco ? A. Yes, sir.

That was the time when Mr. Martin speaks of seeing him at Port Tobacco.

Q. Where did you meet Atzerodt ? A. In Mrs. Surratt's parlor ; he was introduced to me by John Surratt.

Surratt had met him in Port Tobacco when Mr. Martin saw him with him about the 10th or 12th of January. In a few days after that he came up to Washington, came to Mrs. Surratt's house, and Weichmann was introduced to him by Surratt himself in the parlor. I now read again from the testimony of the same witness :

Q. When did you next see Atzerodt at the house ? A. O, I saw him very frequently there between the time of his first coming there and up to the time of the assassination ; perhaps he visited there altogether twenty times.

Q. He was there, then, very often ? A. O, yes, sir ; very often, indeed.

Q. That is, you saw him there very often ? A. Yes, sir.

Q. Will you state during what hours of the day your occupations kept you from the house ? A. From nine until half past four.

Q. At what hours in the day or at night were you in the habit of seeing Atzerodt there so frequently ? A. I generally met him in the parlor on my return from work, between four and five or five and six o'clock.

Q. What was he doing there ? A. Nothing in particular that I know of, except talking with Surratt.

Q. Did Booth also come there ? A. Booth came there very frequently.

Q. Do you remember of Surratt going anywhere in February of that year ? A. Yes, sir ; he went to New York in the early part of February.

Q. Did he tell you what he went for ; and if so, what ?

This is now coming to the next month. We have traced him through January, and we now come to February :

A. He did not state what he went for, but he did state whom he saw there.

Q. Who was that? A. John Wilkes Booth.

Q. What more did he tell you about that visit to York, when he saw John Wilkes Booth? A. Nothing, except saying that Booth had a very fine parlor, and that he had been introduced to Edwin Booth.

Q. In New York? A. Yes, sir.

Q. When did you first see Payne? A. I met Payne at Mrs. Surratt's house in the latter part of February, 1865, for the first time.

He left Baltimore, where he was boarding; came down then to Washington. It was not necessary for Surratt to go to Baltimore to see him again, and it does not appear that he ever did go to Baltimore again :

I met Payne in Mrs. Surratt's house in the latter part of February, 1865, for the first time. I was seated in Mrs. Surratt's parlor one evening, when I heard the door-bell ring. I went to the door. On opening it, I saw standing there a man, tall, with very black hair, very black eyes, and ruddy countenance. He asked me if Mr. Surratt was at home. I said he was not. Then he asked me if Mrs. Surratt was at home. I said she was. He then expressed a desire to see Mrs. Surratt. I inquired his name, and he said Mr. Wood. I went into the parlor, and told Mrs. Surratt a gentleman by the name of Mr. Wood was at the door, who wished to see her. She requested me to introduce him. I did introduce him to Mrs. Surratt and the rest in the parlor as Mr. Wood. I had never met him before this, and I did not introduce him to Mrs. Surratt of my own accord. I never saw the man before.

Q. What did Mrs. Surratt do? A. Payne approached Mrs. Surratt and talked to her. I do not know what he said. She came to me in a few moments, and said "that this gentleman would like to have some supper, and as the dining-room below was disarranged, she would be very much obliged to me if I would take supper up to him in my own room." I said "yes," and I did take supper on a waiter to him in my own room.

You notice, gentlemen, that the first time Payne ever came to this house, he is put up in a private room, and supper taken to him on the order of Mrs. Surratt; and this is in February, 1865, after he has come from Baltimore, after he had left Mrs. Branson's. I am taking these events in their order of time, because I think it is the natural way, and because I think it will help you to get at the truth of this evidence far better than by taking them up in any other order. I read again :

Q. What occurred after the supper was carried up to your room? A. I sat down there while he was eating supper, and made some inquiries of him, asking him where he was from, &c. He said he was from Baltimore.

Q. In what story was this room of yours where he had this supper? A. It was the third story.

Q. Front or rear? A. Third story, back room.

Q. What furniture was there in the room? A. There was a bed there.

Q. The bed on which you and Surratt slept? A. Yes, sir; a table, a looking-glass, and three trunks.

Q. It was a bed-room? A. Yes, sir.

Further on this witness testifies :

Q. Tell what occurred while Payne was eating his supper there? A. I asked him where he was from. He said Baltimore. "Any business there?" said I. He said, "I am a clerk in the china store of Mr. Parr."

Q. What more? A. That was about all. He ate his supper, and then said he would like to retire. He did retire.

Q. To what room? A. He slept in the attic. He did not then, nor did ever, sleep in my room.

Q. Did you see him the next morning? A. No, sir. When I arose he was gone.

Q. When did you next see Payne at the house? A. I saw Payne the next time on the evening of the 13th of March, 1865. As luck would have it, I was again sitting in the parlor when the bell rung. I again went to the door. I met the same man whom I had three weeks before. His former visit, however, had produced so little impression on me that I had forgotten him. I asked him his name. He said, "My name is Mr. Payne." He again asked for Mr. Surratt, but Mr. Surratt was not at home that evening. I took him into the parlor where were Mrs. Surratt and the ladies, and said, "This is Mr. Payne." They all recognized him and sat down and commenced conversation. In the course of the conversation one of the young ladies called him Mr. Wood, and then I recollected that on the previous occasion he had given the name of Wood. On this occasion he was no longer a

clerk in a china store, but he represented himself as a Baptist preacher. He wore a suit of gray clothes, and a black neck-tie. His baggage consisted of two linen shirts and a linen coat. The following day—I believe it was the afternoon—Surratt had returned. He was lying on the bed at the time.

Mr. BRADLEY. Who was? A. Surratt. I was sitting at my table writing. Payne walks in, looks at Surratt, and says, "Is this Mr. Surratt?"

Q. You were in your room up stairs? A. Yes, sir. I said, "It is." He then looked at me, and immediately observed, "I would like to talk privately to Mr. Surratt." I then got up and went out of the room, as any gentleman would have done. The following day, 15th March, on returning to my room from my work, I found a false mustache on my table. Not thinking much about it, I threw it into a toilet-box that was there. From the appearance of things around my room, I knew John Surratt was at home.

Surratt was his room-mate, you know.

I then went into the back attic, and just as I opened the door I saw Surratt and Payne seated on the bed, surrounded by spurs, bowie-knives, and revolvers. They instantly threw out their hands as if they would like to conceal them. When they saw it was me, they regained their equanimity.

Q. Where did those things lie? A. They were on the bed.

Q. State what those things were? A. Eight spurs—bran new spurs—and two revolvers.

Q. How were they as to being new? A. I do not remember whether the revolvers were new or not. There were two revolvers, however, and two bowie-knives. When I went down to dinner, I walked into the parlor and told Mrs. Surratt that I had seen John and Payne fencing with those things here, and added, "Mrs. Surratt, I do not like this."

Q. Did you tell her what you did not like? A. Yes, sir; about Surratt being seen with the bowie-knives.

Q. Did you tell her what you had seen? A. Yes, sir. I told her I had seen them on the bed playing with those toys. She told me that I should not think anything of it; that I knew John was in the habit of riding into the country, and that he had to have these things as a means of protection. We went down to dinner. The same evening Surratt showed me a \$10 ticket for a private box at the theatre. I wrested the ticket from him and told him I was going to the theatre. "No," said he, "you are not; I don't want you to go to the theatre this evening, for private reasons." He then struck me in the pit of the stomach, and took the ticket away from me again. He was very anxious that evening to take the smallest ladies in the house.

Then he goes on to tell who they took.

Q. To what theatre did they go? A. To Ford's theatre. That night about 11 o'clock, as I was lying in my bed—I had retired—Surratt and Payne came into the room. Surratt took a pack of playing-cards which were on the mantel of my room, when they both left, and remained out all night. A few days afterwards, in conversation with a young man named Brophy—

Mr. BRADLEY. Was Surratt present? A. Yes, sir. In this conversation with this young man, Surratt stated that he had spent the other night, meaning the 15th of March, with a party of sociables at Gautier's saloon, and that he would like to introduce us, but it was a private club, or something to that effect.

I now turn to page 379, and again read :

Q. I had passed to the 15th and 16th of March in my last inquiry. I now pass back to the 3d of March. Can you tell what occurred on the 3d of March, 1865; whether you saw Surratt and Booth? A. Yes, sir.

Q. Where? A. I went down the street with Surratt in the evening of that day. At that time there was a good deal of serenading around town on account of the proposed inauguration of the President on the following day. After a while Surratt left me, and I went to hear the music.

Q. Whom did you first go out with? A. John Surratt.

Q. Was there anybody else with you when you first went out? A. No, sir.

Q. Did anybody join you? A. No, sir.

Q. You came back together? A. No, sir; we did not come back together; Surratt left me.

Q. Where did he leave you? A. On Pennsylvania avenue, near Eighth street.

Q. Then what occurred? A. When I returned to the house of Mrs. Surratt, I saw John Wilkes Booth and John H. Surratt in the parlor talking together.

Q. About what time did you return? A. After seven.

Q. Then what occurred? A. Then I proposed that we should walk up to the Capitol. Congress was at that time in session. Three of us did go—Surratt, Booth, and myself. When we were returning from the Capitol, Surratt and I left Booth at the corner of Sixth street and Pennsylvania avenue.

Q. What did Surratt then do? A. We went home.

Q. Did you see Booth again that night? A. No, sir.

Q. After you and Surratt got home, what? A. Nothing.

Q. Did you see Booth the next morning, the 4th of March? A. I saw him on the eve-

ning of the 4th, at Mrs. Surratt's. He was in the parlor then. I did not see him during the day.

Q. Was John Surratt at home that evening? A. Yes, sir; he had been riding round town all day with the procession; he was on horseback.

Q. Did you see Herold that evening? A. No, sir.

Q. Who else besides Surratt and Booth were at the house that evening? A. No one, that I know of, except those in the house.

Q. Up to this date had you seen Herold at the town house? A. I met Herold at Mrs. Surratt's once.

Q. When was that? A. In March, 1865.

Q. What time in the day? A. After 4 o'clock. I generally saw these people there, and these events that I narrate, after 4 o'clock.

Q. Where was Herold then? A. He was in my room, talking with Atzerodt and John Surratt.

Q. He came there on horseback. Do you know how he went away? A. He went away on horseback. He left the horse in Mrs. Surratt's yard.

Q. When did you next see Herold at the house? Did you see him there between that time and the 16th of March, 1865? A. I saw him only once at Mrs. Surratt's house.

Q. Do you know what the play was on this night that you speak of Payne and Surratt going to the theatre with these young girls? A. "Jane Shore."

Q. Do you know whether Booth played that night? A. He did not.

Q. Do you know when he did play at Ford's theatre next after that? A. He played on the evening of the 18th of March.

Q. What did Booth play in at Ford's theatre on the 18th? A. He took the part of *Pescara* in the play of "The Apostate."

Q. Who were there? A. Surratt invited me to go to the theatre that evening with him. I at first refused, but finally consented. He showed me a pass for two, signed by J. Wilkes Booth. As we went down Seventh street, near the corner of Seventh street and Pennsylvania avenue, we met Atzerodt. He was also going to the theatre. At the theatre we met David E. Herold and Mr. John T. Holohan, a fellow-boarder at Mrs. Surratt's.

Q. Then at the theatre that night were Surratt, Herold, Atzerodt, and yourself, and Booth playing? A. Yes, sir. Mr. Holohan was also there.

Q. And this you say was on the 18th? Yes, sir.

Now this, as you see, when he was playing "The Apostate" at this theatre, was less than a month before the great drama where he played the apostate, traitor, assassin, murderer.

I next call your attention to the testimony of a young lady, Miss Fitzpatrick, who we put upon the stand, who was a boarder at that house—a young girl who did not seem to remember a great deal, but did remember some things of very grave importance. I refer to page 232. She says she was living at Mrs. Surratt's house; that she knew George A. Atzerodt, but did not know him by that name.

Q. By what name did you know him? A. I knew him by the name of "Port Tobacco."

Q. Where did you see him? A. I met him at Mrs. Surratt's.

Q. About what time was it? A. I do not remember; he called there one afternoon.

Q. Do you recollect what year it was, and what month? A. No, sir; I do not remember.

Q. How long before the assassination was it that you saw this man? A. I do not remember.

Q. Was it not the day or night previous? A. No, sir; that was not the night.

Q. How often did you see this man at Mrs. Surratt's? A. I do not remember how often I met him there.

Q. Did you see him there more than once? A. Yes, sir; I think I have seen him there more than once.

Q. Do you remember his ever spending a night there? A. I remembered he staid there one night.

Q. Do you remember what night that was—how long before the assassination? A. I do not remember, sir.

Q. Could you give any approximate idea of the time? A. No, sir; I have no idea at all.

Q. Do you know how long you commenced boarding there before Atzerodt came? A. No, sir.

Q. Did you know a man by the name of Lewis Payne, whom you saw before the military commission? A. I did not know him by that name; I knew him by the name of Mr. Wood.

Q. When and where did you first see him? A. I met him at Mrs. Surratt's also.

Q. How often did you see him at Mrs. Surratt's? A. I do not remember seeing him there but twice.

Q. With whom did he come, and in what company did he come? A. He called there one evening by himself.

Q. How long was that before the assassination? A. I think it was some time in March.

Q. Was that the first time you saw him? A. Yes, sir.

Q. In what room did you first see him? A. I met him in the parlor.

Q. With whom was he talking at the time? A. He was not conversing with any one in particular.

Q. Who were in the room at that time? A. Mrs. Surratt, her daughter Anna, Miss Holohan, and Mr. Weichmann.

Q. When was the next time you saw him there? A. I saw him in March, also.

Q. Did you never see him there afterward? A. No, sir.

Q. You did not see him the day you were arrested? A. I recognized him at the office after I was taken there.

Q. You did not see him at the house? A. He was at the house, but I did not recognize him.

Q. When you got to the office you recognized him as a man whom you had seen at the house? A. I saw Mr. Wood, sir.

Q. When you say Wood, do you mean Lewis Payne, whom you saw before the commission? A. Yes, sir.

On page 234, this witness says:

A. The last time I saw Mr. Surratt was two weeks before the assassination.

Q. During these visits by Atzerodt and Payne to Booth, did you see John at the house? and if so, did you ever see or hear them conversing? A. I have seen them, but never heard them conversing together.

Q. Do you recollect in the month of March of going to Ford's theatre? and if so, state in whose company you went. A. I went with Mr. Surratt, Mr. Wood, and Miss Dean.

Q. State in what part of the theatre you were seated—whether you occupied a box or seat in the orchestra. A. We occupied a box, sir.

Q. When you say Mr. Surratt, you mean John H. Surratt, the prisoner? A. Yes, sir.

Q. And when you say Mr. Wood, you mean Lewis Payne? A. Yes, sir.

Q. While your party was in the box, did you see J. Wilkes Booth? If so, state what he did. A. Mr. Booth came there and spoke to Mr. Surratt. They both stepped outside the box, and stood there at the door.

Q. You mean spoke to the prisoner? A. Yes, sir.

Q. State if any one else joined them while they were standing there. A. Mr. Wood.

Q. Lewis Payne, you mean? A. Yes, sir.

Q. How long were these three talking together? A. They remained there a few minutes.

Q. Could you hear what they said? A. No, sir; I was not paying attention; they were conversing together.

Q. State, if you please, where the box was—in what part of the theatre? A. I think was an upper box. I do not remember what side of the theatre it was on.

On the next page, referring to the Herndon House, the witness says:

A. I remember passing with Mrs. Surratt; I do not know what month it was.

Q. Who were in company with you and Mrs. Surratt at that time? A. Mrs. Surratt, Mr. Weichmann, and Miss Jenkins.

You will observe, gentlemen, that this young girl, in both the occurrences about the theatre and about the Herndon House, quite unconsciously and innocently, fully confirms Weichmann in all these particulars.

Q. When you got to the Herndon House, state what Mrs. Surratt did and what the rest of the party did? A. Mrs. Surratt went in; the others of us walked up the street a little ways.

Q. Did you wait for her up there? A. Yes, sir.

Q. How long did you wait for her? A. Only a few minutes there.

Now, this is the Herndon House, where I shall show you presently, by the positive evidence of Mrs. Murray and other witnesses, Mrs. Surratt went to get private board for Payne to stay; where she did get it, and where he did stay.

I now turn your attention to another piece of evidence in connection with this. Payne was secreted at the Herndon House, where Mrs. Surratt went to engage a private room for him; and this is another of those striking pieces of evidence which will always appear in trials of this kind. It is a curious thing, in this same month, at this same time, when Booth was in New York, when arrangements are being made by Mrs. Surratt to secrete Payne at the Herndon House—Payne, the man who was in delicate health, and who would take his meals in his rooms; and now let us see what occurred. Here is a telegram, the original

in the handwriting of J. Wilkes Booth himself, sent from New York on the 3d of March, 1865, and it reads as follows :

To — Weichmann, esq., 541 "H" street, Washington, D. C. Tell John to telegraph the number and street at once.

J. BOOTH.

"Tell John to telegraph the number and street at once." Why did not Booth telegraph to John? Here is another of these efforts to conceal what is known to be a criminal knowledge. He wants to take a roundabout way to accomplish the end. Why did he not telegraph to John? Why did he want the despatch to go through Weichmann? He mentions John's name, and knows that Weichmann, his room-mate, will show the telegram to John, and therefore he says to Weichmann, tell John to telegraph the street and number at once. What does Weichmann do? He does tell John; and now let us see what occurs. He takes this telegram to John, and, finding it was something he did not understand :

Q. What did he say? A. I told him I thought it was intended for him. I asked him what number and street were meant. [The telegram reads, "Telegraph the number and street at once."] He says, "Don't be so damned inquisitive."

There was nothing very strange that he should ask the question, but John says, "Don't be so damned inquisitive." The number and street was the Herndon House, where Mrs. Surratt had engaged a room of Mrs. Murray. Booth is in New York, and wants to know where Payne is. Therefore he wants John to telegraph the number and street at once, and when Weichmann asks John what it means, the reply is, "Don't be so damned inquisitive."

The testimony goes on :

That same evening he asked me to walk down the street with him. We went as far as Tenth and F, when we met a Miss Anna Ward; he then walked back from Tenth and F streets to Ninth and F streets with me, and went into the Herndon House and called for Mrs. Murray.

That is why he wanted the street and number telegraphed at once.

Q. You went in with him? A. Yes, sir.

Q. When she came he desired to speak with her privately? A. Mrs. Murray did not understand him; then Surratt said, "Perhaps Miss Anna Ward has spoken to you about this room; did she not speak to you about engaging a room for a delicate gentleman who was to have his meals sent up to his room, and that he wanted the room for the following Monday?" which was the 27th of March, 1865. Mrs. Murray recollected, and said that a room had been engaged. The name of the party for whom the room had been engaged was not mentioned by myself, by Mrs. Murray, or by John Surratt.

Now you will understand the mystery. You understood it at first. I merely put this telegram with the fact of engaging the room at the Herndon House, in their order of date, and one explains the other. Mrs. Surratt had engaged a room at the Herndon House, and Booth wants to know its location. John goes there with her to talk about the room. Then Payne comes there, and his room is to be telegraphed to Booth, and this is what John told Weichmann not to be so damned inquisitive about.

Mr. BRADLEY, Jr. With the permission of the gentleman, I will interrupt him, simply to ask a question of the court. I believe, according to the practice of your honor, it is not considered regular to interrupt a counsel in the course of his argument. What I desire to know is, that if there is any misstatement of fact made by him in the course of his argument, you will allow us the privilege of correcting it after he is done.

The COURT said that would be done if the counsel should misstate.

Mr. PIERREPONT. I intend there shall be no chance for that, gentlemen, and for that reason I read the testimony from the record. It is so easy for counsel, in the heat of argument, to state evidence differently and give it a different turn and sound from what it is in fact. It is for that very reason that I have taken this laborious way of reaching the evidence upon which I rely, word for word,

and giving counsel the page at which I read. I now read upon the same subject from page 383 :

Q. This was on the 23d of March, I think. Now, on the 24th of March did anything occur or not? A. No, sir.

Q. Then I will come to the 25th of March, 1865. Did you see John Surratt on that day? A. Yes, sir. As I went to breakfast, and looked out of the dining-room window, I saw John Surratt, his mother, and Mrs. Slater, who had been at the house previously, in a carriage containing four seats, to which were attached a pair of white horses.

Q. Do you know where the horses came from? A. Yes, sir. Mrs. Surratt, the same evening, told me that the horses had been hired from Brooke Stabler.

Q. Did the three go away together? A. Yes, sir.

Q. About what time in the day did the three leave? A. About eight o'clock in the morning.

Q. When did you next see Mrs. Surratt? A. I saw her the same evening.

Q. Where? A. In her house.

This you well know is March 26, 1865.

Q. How did she come back? A. She returned alone.

Q. Did she return in the carriage, or in some other way? A. In the Port Tobacco stage—the stage that runs from Bryantown, or Port Tobacco, to Washington, and delivers passengers at the Pennsylvania House.

Q. Did Mrs. Slater and John Surratt return with her? A. No, sir.

Q. Did they come there that night at all? A. No, sir.

Q. Did Mrs. Surratt tell you anything that occurred with them? A. I asked her where John had gone. She said he had gone to Richmond with Mrs. Slater, to get a clerkship.

All manner of excuses, you will notice, are given—quite unnecessary excuses, as such excuses are always given to cover up something. Such is the excuse about the farm. He gives you an excuse of what he had gone to Richmond for. You will see them all through. You recollect that John writes a letter to this poor old Brooke Stabler—this broken-down keeper of livery; tells him that he did not know how long he should be gone, for he has woman on the brain. If he had had woman on the brain, do you think he would have been very likely to have made that old man the *confidante* of his loves? He did it to conceal from him what he was about. Then you will remember that these horses came back, and now I read from page 385:

Q. Did you go with her (Mrs. Surratt) to church at any time, and returning, stop anywhere? I do not remember the dates. You will give them. A. Yes, sir; after the 27th, I do not remember the particular evening, Anna Surratt, Miss Jenkins, Miss Fitzpatrick, Mrs. Surratt, and I had been to St. Patrick's church, on the corner of Tenth and F streets.

Q. What occurred in returning? A. On returning she stopped at the Herndon House, at the corner of Ninth and F streets. She went into the Herndon House, and said that she was going in there to see Payne.

Q. Mrs. Surratt said that? A. Yes, sir.

Q. Tell what occurred? A. She did go, and she came out.

Q. How long was she in there? A. Perhaps twenty minutes.

Q. Did you see her when she came out? A. Yes, sir.

Q. Where were you waiting? A. We walked down Ninth street to E—the party did—and down E to Tenth; and then returned to the corner of Ninth and F, and met Mrs. Surratt just as she was coming out of the Herndon House.

Q. Did she join you? A. Yes, sir; and went home with us.

Q. To her house? A. Yes, sir.

Q. Did she say anything to you? A. No, sir.

Q. Did you have any conversation with her that day on that subject in any way? A. During that week I was one day going down Seventh street, and again near Seventh street and Pennsylvania avenue, I met Atzerodt. I asked Atzerodt where he was going. He replied, "To see Payne." Then I inquired, "Is it Payne who is stopping at the Herndon House?" His answer was, "Yes." I had always been curious to know who that man was who was stopping there.

Q. Did Mrs. Surratt tell you who it was? A. When I mentioned to her, after returning home, that the man Payne who had been boarding at her house was at the Herndon House, she wanted to know how I knew it. I just told her as I have stated here.

Q. What did you tell her? A. That Atzerodt told me. She appeared angry that Atzerodt should have said so to me.

Q. State in what way she indicated her anger? A. Merely by her countenance—her expression.

Mr. PIERREPONT. I come down to the mouth of April, in which the assassination happened.

Q. Do you know where Mrs. Surratt was on the first of April? A. In the morning, when I left the house, she was sitting at the breakfast table, and when I returned in the evening she was not at home.

Q. When did you next see her? A. She came home a short time afterwards in a buggy, driven by her brother, Mr. Jenkins. She said that she had been to Surrattsville.

Q. Did she say anything more? A. No, sir.

Q. On that 1st of April, or the evening of that day, did you see either of these parties at the house? A. No, sir.

Q. On the 4th and 5th did you? A. I saw Atzerodt at Mrs. Surratt's house on the 2d of April. She had again sent me on the morning of the 2d of April to the National Hotel to see Booth, and if he was not there, to go and see Atzerodt, and tell either of them she wanted to see him that morning.

Q. Did you go? A. I went to the National Hotel, but Booth was not there.

Q. Did you find Atzerodt? A. I then went to the Pennsylvania House, and right in front of the Pennsylvania House I saw Atzerodt standing and holding by the bridles two horses; one was a very small one, and the other a very large horse, blind of one eye. Said I to him, "Whose horses are those?" He replied, "One is mine and the other is Booth's." I then communicated my message to him, and he requested me to get on one of the horses and ride back with him. I refused, stating that I wished to go to church. He then said he would go to church with me. Then I mounted the horse, and Atzerodt and I rode to Mrs. Surratt's house. Atzerodt got off and went in to Mrs. Surratt's, and I remained outside part of the time, taking care of the horses. That same afternoon, Mrs. Surratt said to me that Mr. Jenkins, her brother, would like to return to the country, and that she would be much obliged to me if I would go to the Pennsylvania House and see Atzerodt, and say to him that he would oblige her very much by letting Mr. Jenkins have one of John's horses—meaning her son's horses. I went down to the Pennsylvania House that afternoon with Mr. Jenkins, and I did ask Atzerodt for one of these horses for Mr. Jenkins, stating to him my message as I had received it. His reply was that before he could loan Mr. Jenkins one of the horses he would have to see Mr. Payne about it. I then said to him, "What has Payne to do with the horses? You have said that one is yours, that another is Booth's, and Mrs. Surratt says that the horses are John's." John Surratt himself had told me that they were his, and had shown me at one time a receipt for the livery of the same two horses, the bill amounting to thirty dollars.

Q. What did he reply? His answer was that Payne had a heap to do with them. Mr. Jenkins, Atzerodt, and myself then walked up to the corner of Ninth and F streets, and Atzerodt requested us to remain outside and he would go in and see about the horses.

Now then, gentlemen, you will note this fact. They put Mr. Jenkins upon the stand, and did Mr. Jenkins deny this?

Q. What house was that? A. The Herndon House; he told us to remain outside on the pavement. Mr. Jenkins and I remained on the pavement for about twenty minutes; Atzerodt came out, and he told us that Mr. Payne would not consent to the loan of those horses.

Now, then, we begin to find out who this man Payne was—this sick man, who was to have his meals sent to his private room.

I returned to Mrs. Surratt's house and told her what Atzerodt had said. She said she thought it was very unkind of Mr. Atzerodt; that she had been his friend, and had loaned him the last five dollars out of her pocket.

Q. What more occurred? A. Nothing more on that day.

Q. You didn't get the horse? A. No, sir. Mr. Jenkins walked home the next morning, I believe.

Q. This was the 2d? A. Yes, sir.

Q. Now, on the 3d, what occurred? A. On the 3d of April, after the excitement and noise of the day, I was seated in Mrs. Surratt's parlor in the evening, on the sofa, when, about half-past six o'clock, John Surratt walked into the room. He was very neatly dressed. He had on a new pair of pants. I asked him where he had been. His answer was, to Richmond. I then said, "Richmond is evacuated. Did you not hear the news?" "No, it is not," he said. "I saw Benjamin and Davis in Richmond, and they told me it would not be evacuated."

Q. Was Mrs. Surratt in the room at this time? A. Yes, sir.

Q. What did she say? A. She merely bade him good evening.

Q. How long did he stay there? A. He went up into my room and put on some clean clothes.

Q. Did he go with you? A. No, sir; he went up before me. I went up a few minutes afterwards. I think he called me up stairs.

Q. When you got to the room with him, what did he say? A. He did not say very much. He said that he wanted to exchange forty dollars in gold. He did exchange this forty dollars

in gold for forty dollars in greenbacks. He showed me in the room nine or eleven twenty-dollar gold pieces, and fifty dollars in greenbacks.

Mr. BRADLEY. Before he made the exchange? A. He made the exchange after he showed me the gold. He showed me the gold and the greenbacks at the same time.

Q. Did he say anything as to where he had got the money? A. I did not ask him where he got it. I expressed a sort of surprise. He said that he had an account in the Bank of Washington, but he did not say that he had gotten this money from the Bank of Washington.

Q. Did he say anything when you expressed your surprise? A. No, sir.

Q. Did you see any other money that he had? A. No, sir; not that evening.

Q. Any other evening? A. No, sir.

Q. That was all the money you saw him have at that time? A. I had seen him before. He always appeared to have plenty of money in his pockets—five dollars and ten dollars. He seemed to be always well supplied.

And yet you see he was a young man with no occupation and without any means; his mother a poor woman, keeping a boarding-house in the city of Washington. I now turn your attention to page 216 of the testimony of this old man, Brooke Stabler, coming in with these various dates, beginning at the beginning :

Q. What was your occupation from the first day of January to the first day of June, 1865?

A. I was in a livery stable; taking charge of a livery stable.

Q. Whose stable was it? A. John C. Howard, on G street, between Sixth and Seventh.

Q. Do you remember the number? A. I do not.

Q. Did you know John Wilkes Booth? A. I did.

Q. Did you know John H. Surratt? A. I did.

Q. Did you know George A. Atzerodt? A. I did.

Q. Did you see them at your stable? A. Frequently.

Q. Did you see them all together there? A. I have seen them together and separately.

Q. What did you see them doing? A. They were talking, sometimes.

Q. Talking together? A. Yes, sir.

Q. State when you first saw John Wilkes Booth at your stable, as near as you can remember. A. I cannot remember exactly the time; it was about the time Surratt entered his horses at that stable in my care.

Q. When did Surratt put his horses at that stable in your care? A. That, I think, is stated in my testimony on the other trial; I do not recollect it now.

Q. Can you state whether it was about February, 1865? A. It was along about that period.

Q. In what manner did Surratt put his horses in your charge? A. He left them there to be taken care of—to be fed and watered.

Q. How many were there? A. Two.

Q. Will you describe these two horses? A. They were bay horses. One was an ordinary horse; the other was rather a fine horse—saddle horses.

Q. Were both horses, or one a mare? A. Both horses.

Q. What was the direction he gave you about them? A. His direction was that he wanted them taken care of in the best manner I could.

A. In reference to their use, what did he direct? A. That they were not to be used except by his order.

Q. Did he give you any order about their use? A. He gave me an order on one occasion for Booth to use them.

Q. What did he say in giving that order? A. His directions were that Booth and no one else was to have his horses, but that Booth could get them at any time.

Q. Booth could get either horse at any time; he did not mention any one? A. I do not recollect that he did; Booth usually got one horse.

Q. Which one? A. The better one.

Q. When these men came, did they come together or separately? A. Sometimes two of them would come, and I believe all three of them have come together.

Q. How was it generally; did they all come together, or separately? There were generally two of them.

Q. How often in the course of a day were they there sometimes? A. Two or three times a day, sometimes.

Q. Did you see Atzerodt ride out with Surratt on any occasion? A. I did on one occasion.

Q. Did you have any written order from Surratt? A. I had one.

I now come to the letter which Surratt wrote to Brooke Stabler when he returned these horses on the 26th of March, and went off with this woman, Mrs. Slater, or Mrs. Brown—sometimes she went by one name and sometimes by the other. This was the letter which he returned with the horses :

MARCH 26, 1865.

Mr. BROOKS: As business will detain me for a few days in the country, I thought I would send your team back. Mr. Bearer will deliver in safety and pay the hire on it. If Mr.

Booth, my friend, should want my horses, let him have them, but no one else. If you should want any money on them he will let you have it. I should have liked to have kept the team for several days, but it is too expensive, especially as I have woman on the brain, and may be away for a week or so.

Yours, respectfully,

J. HARRISON SURRATT.

Well, he had woman on the brain, had he? Was that what he went down there for? And was this poor old stable-keeper the man to whom he communicates his amours? Do you believe that is so, or was this letter for a mere blind? "I should like to have kept them, but could not; it was expensive, especially as I have woman on the brain and may be away for a week or so." He had something else on the brain, that was put on his brain at the time, or at a little before the time he wrote this card. "I tried to get leave, but could not succeed." He took his leave. He never got a cent of the money that was due to him; he had not a cent of resources in the world. His mother was a poor woman, as the counsel tells you, in very straitened circumstances, as she undoubtedly was. Where did he get his money? Where did he buy his horses? Do you suppose women on the brain gave him any money? He says "that is expensive." It is apt to be so. Where, I say, did he get his money, and how did he buy his horses? How could he have them kept at this great expense? "If Booth, my friend, should want my horses, let him have them, but no one else." I read again:

Q. Who did you see Surratt ride out with from your stable with any of the horses? A. I have seen him ride out with Booth, and I have seen him ride out with Atzerodt.

Q. Did you receive any other note from John H. Surratt? A. Not that I recollect of now.

That recollection, however, was refreshed afterward, and he produced the note. And it is a note in the case. I will presently read it. I turn now to read from the testimony of this same witness:

A. I have seen Booth, Atzerodt, and Herold.

Q. With whom? A. With Surratt.

Q. Did you omit any name yesterday? A. Yes, sir; Herold's name was omitted yesterday.

Q. Did you have any conversation with either of those men in relation to Surratt's trip anywhere; and if so, what was it? A. I had with Atzerodt.

Q. State what it was. A. He showed me the conclusion of a letter which he had received from Surratt, stating—

Mr. BRADLEY. Never mind that.

Mr. PIERREPONT. You can state what Atzerodt said. What did he say? A. He told me that he had a letter in his hand from Surratt, but that he would not let me see it at all. He opened it, and the concluding paragraph I read.

Q. What further did he say? A. He said that in that letter—

Here comes an objection by the counsel to this evidence going in, but it was admitted by the court, and this answer is given:

He told me that he would not show me the letter—the body of it—but that he would show me the latter part of it. He stated that the letter was dated in Richmond, and that he had understood that the detectives were after him, and he was making his way north as fast as he could. That is about the amount of what Atzerodt told me.

I read from the same page:

Q. He did not name whose particular squad, that you remember? A. No, sir; I do not recollect that he did.

Q. You say government detectives—detectives of what government? A. Government of the United States.

I now refer to page 223, to give you the other order from the prisoner already referred to in the testimony of this witness:

Mr. Howard will please let the bearer, Mr. Atzerodt, have my horse whenever he wishes to ride; also my leggings and gloves, and oblige yours, &c.,

J. H. SURRATT.

541 H street, between Sixth and Seventh streets, *February* 22, 1865.

This is the note written by Surratt to Brooke Stabler, not only to let Booth have his horses, as did the other note, but also to let Atzerodt have his horses. Referring to these parties coming together to the stable, his testimony is given:

Q. What did they do when they got down to the back part of the stable? A. That I do not know. They would be conversing together. Frequently I noticed that.

Q. Will you state what the manner of the conversation was, so that these gentlemen can understand it? I mean as to whether it was in a loud or in a confidential, whispering tone. A. They would generally be about 150 feet from me—from 100 to 150 feet. Sometimes I would see them when they would be down there; at other times I would not; I would be busy in the office.

Q. Could you hear anything they said? A. No, sir.

Q. What was their manner of conversation? A. It was not so that I could hear any voice at all.

I turn now to the testimony of James W. Pumphrey, page 225:

Q. State when, where, and under what circumstances you first formed his acquaintance.

A. John Wilkes Booth came to my stable one day for a saddle horse; he asked for the proprietor; I stepped up and told him I was the man; he said he wanted a saddle horse to ride for a few hours; I cannot tell the exact day that he came there; I did not know at the time it was Booth, but found out that it was after talking with him for a short while; he said he wanted a saddle horse to take a few hours' ride in the country; I told him I could let him have one; he said he did not wish any but a good one; I told him I had a very good saddle horse, I thought; he then said, "I wish you would have him saddled;" I ordered him saddled, and then said to him, "You are a stranger to me, and it is always customary with me when I hire a horse to a stranger to have him give me some security, or some satisfactory reference." At that time Mr. Surratt—I do not know whether he stood across the street, or came over—

Q. The prisoner? A. Yes, sir; Surratt said he knew him; that it was Mr. Booth, and he would take good care of the horse; I cannot now tell whether the prisoner came over and said this to me, or stood on the opposite side of the street and hallooeed across.

Q. How long have you known the prisoner? A. A great many years.

Q. State as near as you can all that Surratt said at that time. A. I think he said he would see me paid for it; that he was going to take a ride with Mr. Booth.

Q. Go on. A. That is about all; I went in and ordered the horse to be saddled and brought out; there were some gentlemen sitting in front of my stable at the time; who they were I do not know.

Q. What kind of a horse was it? A. A light sorrel. When I came out with the horse saddled, he was gone; I asked some of them out at the door where he went. They said they thought he went to the Pennsylvania House. The boy stood at the door with the horse, and I stood out there watching for him. I saw him come out of the Pennsylvania House; he came out alone, and came over and started off on the horse alone.

Again:

Q. I will ask you if you saw him on the 14th of April, 1865? A. Yes, sir. He called at my stable that morning.

Q. State what time it was you saw him. A. Somewhere between 11 and 1 o'clock, as well as I can remember. I did not pay much attention to the time. He called for a saddle horse, stating that he wanted to ride that afternoon. He expressed a desire to have the same horse that he had been in the habit of riding. I told him he was engaged, and therefore he could not have him. He wanted to know if I could not put the person off to whom I had engaged him, and let the man have the horse that I was to give to him. I told him I could not do that. He then wanted me to give him a good one. I told him that the horse I was going to give him was a very good saddle horse. I told him I thought so, and he would think so after he had ridden him. He says: "Well, don't give me any but a good one." I told him I wouldn't; that I would give him a little mare; that she was small, but a very good one.

On page 327 Fletcher was called. He says he was at Naylor's stable on the 14th of April; that he saw Atzerodt and Herold at the stable, but not together; that he saw Atzerodt first. On page 229 this witness states, referring to occurrences on the night of the 14th of April:

Atzerodt came after his horse about 10 o'clock. I sent one of the boys down to the stable to get the horse ready for him. He afterwards wanted to know if I would not go and take a drink with him. I told him that I had no objection. He and I then went down to the Union Hotel and had a glass of ale. He asked if I would have any more. I thanked him, but told him I would not take any more. Returning back to the stable, he said to me, "If this thing happens to-night you will hear of a present."

That was what Atzerodt told the keeper of the stable from whom he obtained these horses. He could not keep it in, he was so full of it, so sure of it. He says, when he was getting this horse and drinking with him and wanted to treat him over again, "If anything happens to-night you will hear of a present."

When he had mounted his horse I remarked to him, "I would not like to ride that horse this time of night; he looks too scarish." Said he, "He is good on a retreat."

Further on :

Q. Did you see Herold again? A. Yes, sir.

Q. Where? A. On the corner of Fourteenth street and the avenue.

Q. State what he was doing. A. He was coming down the avenue from Fifteenth street. He was not riding very fast. It seems he knew me. I went up to him and demanded the horse.

Herold did get one of his horses this same night.

Q. About what time was that? A. I think it must have been twelve minutes past 10 o'clock.

Q. How long after you had seen Atzerodt turning up Tenth street? A. I cannot say how long. I walked just as fast as I could from Twelfth street to Fourteenth street. When I demanded the horse from Herold he paid no attention to me, but put spurs into the horse, and went up Fourteenth street as fast as the horse could go. I kept sight of him until he turned east of F street. I then returned to the stable, saddled and bridled a horse, and started after him.

He afterwards saw the horse, as he says on the next page, at Major General Angur's headquarters, the horse having been caught in the night, after the murder, and returned there.

Mr. Toffey, on page 231, gives an account of the catching of this horse. He says :

On the night of the 14th, or the morning of the 15th, of April last—it might have been a little after one—as I was going to the Lincoln hospital, where I am on duty, I saw a dark bay horse, with saddle and bridle on, standing at Lincoln Branch barracks, about three-quarters of a mile east of the Capitol. The sweat was pouring off him, and had made a regular puddle on the ground. A sentinel at the hospital had stopped the horse. I put a guard round it, and kept it there until the cavalry picket was thrown out, when I reported the fact at the office of the picket, and was requested to take the horse down to the headquarters of the picket, at the Old Capitol prison.

I now bring your attention to another kind of evidence. On page 203 is the testimony of Mr. Samuel A. Rainey. He says he lives in Washington; has lived here for twenty years. His business is keeper of a livery stable:

In answer to the question, who took the livery stable with him in 1865, he says :

A. Dr. Cleaver; his name is William E. Cleaver.

Q. Was he a veterinary surgeon? A. Yes, sir.

Q. How long did you and Cleaver continue together in that business? A. To the best of my recollection some eight or nine months; not quite a year.

Q. He and you, from the 1st of January to the 1st of June, were partners? A. Yes, sir.

Q. Were you equal partners? A. Yes, sir.

Q. Did you keep the books of the firm? A. They were kept by Dr. Cleaver. My health was bad during that year—I was very little at the stable—and it is bad still; I was there off and on, but not regularly.

Q. Did you know John Wilkes Booth? A. Only by name; I was not acquainted with him.

Q. Did he come to your stable, and did you see him there two or three times? A. I remember seeing him there once or twice—once that I remember.

Q. I suppose you know what Surratt came there for? If so, state. A. Yes, sir. It is customary for men coming there to have business, generally.

Q. What was his business? A. Surratt came there on one occasion to get a horse.

Q. At what time was that? A. I do not remember; my partner hired the horse.

Q. You saw him there? A. I saw him there.

Q. Have you any memory of what kind of a horse that was? A. To the best of my recollection it was a bay mare.

His partner, he says, was Cleaver. I now turn to page 205, the testimony of Cleaver, called Dr. Cleaver.

Q. How long have you been a veterinary surgeon? A. Seventeen years in this city.

Q. How long have you lived here? A. About seventeen years.

Q. Were you educated as a veterinary surgeon? A. Yes, sir.

Q. In 1865, or prior to 1865, did you keep any other stable in any other place? A. Yes; I kept a stable on B street.

Q. Did you know J. Wilkes Booth? A. Yes, sir.

Q. Did you know John H. Surratt? A. Yes sir.

Q. How long have you known John H. Surratt? A. About twelve years, I think; ten or twelve years.

Q. Have you had a speaking acquaintance with him? A. Yes, sir.

Q. What was the mode in which you addressed him and he addressed you? A. He came down to hire a horse of me at the time Booth kept his horse with me.

Q. What did you call him and he call you? A. I usually called him "John," and he called me "Doc."

Q. When did Booth first bring his horse to you to keep? A. The 1st of January, 1865, the day we got the stable

Q. And to that stable on 6th street? A. Yes, sir.

Q. What was the health of your partner at this time? A. He is sickly all the time.

Q. State what horse Booth brought. A. He brought a one-eyed bay horse first.

Q. What next? A. About ten days afterwards he brought a light bay horse, very light bay.

Q. Did he bring any others? A. No, sir.

Q. At what time was this? A. In January, 1865. I think you will find it in the book there.

Q. State whether you saw him and Surratt there together. A. Yes, sir.

Q. What were they there together about? What did they say and do? A. I do not know; the first time I hired a horse to them. The first time I saw Surratt there with Booth, Booth came, I think, and paid one or two weeks' livery. Then, three or four days after, he came down and I hired him a horse to go into the country.

Mr. BRADLEY. Hired to whom?

A. To Surratt. He came and hired a horse two or three times. The next time Booth and Sam. Arnold came there together.

I now pass to near the bottom of this page.

Q. What time was it that he got there? A. About seven o'clock that evening. It was raining very hard. He came about three and ordered them.

Q. When he came at seven what occurred? A. He came there; I was standing in the gangway. It was raining very hard.

Now here is a fact, gentlemen. I pause to comment for a moment. They say because Cleaver has shown himself to be of violent passion in a certain way, he cannot tell the truth. I appeal to you as men of sense, to your experience, and ask you whether it is your experience that that fact so changes a man's truthfulness, as far as you know. My experience is not that a man's getting drunk changes his truthfulness. A man may have a passion for liquor, a passion for other things. I have known some men, entirely truthful men, who were drunk three times a week, and whose truthfulness, whether everything or anything was at stake, nothing could shake. But in this case the testimony of this man, as you see, bears evidence of truth. He gives distinct dates and particulars. How could he know it was raining at this particular time, and at this particular date, if he fabricated his testimony? You, gentlemen, know that a record is kept here at the Smithsonian Institute, and one other place in Washington, every hour in the day, from one year's end to another, of the state of the weather, the state of the clouds, and of the amount of rain that has fallen, whether it rains or is not raining, and that if he were not testifying to the truth, how easy would it have been to contradict him, and prove that his testimony was false; and yet my learned friends have not brought a single witness to dispute his statements.

I asked him if he was going to the country on such a night as that. He said yes, he was going down to T B, to a dance party.

This was not woman on the brain; this was a dance party. Always some reason given for whatever he did, and this is the reason he gives for going down into the country that night.

I told him it would have to be a fine dance party that would take me down there such a night as that. I asked him to go over to the Clarendon and get a drink. He said he thought he had had enough then. I thought so too.

Q. Did Booth come? A. He had not come yet; I asked Surratt into the office to sit down.

Q. Did he come in? A. Yes, sir; he came in and sat there some few minutes. He told me he was going down in the country to T B, to meet a party and help them across the river—

He had forgotten the dance then. At first he was going down to T B to a dance, but when he got into the office he was going down for another kind of dance; "that he and Booth had some bloody work to do; that they were going to kill Abe Lincoln, the d——d old scoundrel; that he had ruined Maryland and the country. He said that if nobody did it, he would do it himself, and pulled out a pistol and laid it on the desk. And he represented two counties in Maryland."

Well, he was pretty tolerable drunk, I suppose. At this time he felt as if he could represent a dozen counties. He pulled out his pistol, as he did on the ship when he thought he saw an American detective, and said that would settle him. He pulled out his pistol, as he did when near the coast of England it was suggested he might be arrested in England. He pulled it out here in the same style when telling of the great things he was going to do.

Q. State whether the rain continued? A. Yes, sir; very hard.

Is there any lying about this? Cleaver did not know the record would show this fact when he testified about how hard it was raining.

Q. Did Booth come? A. He came about eight o'clock.

Q. State whether there was any conversation afterward between Booth and Surratt? A. Mr. Surratt chastised him for being so late—for keeping him waiting so long.

Q. Will you explain what you mean by the word "chastise?" A. I think he was going to hit him in the face with a glove or something of that kind—in joke, of course. He either hit at him, or hit him, I do not know which.

Q. Jokingly? A. Yes, sir.

Q. I simply wanted to know whether you used the word "chastise" in the ordinary meaning of it, or whether you meant to chide—find fault? A. Yes, sir; to find fault.

I shall have occasion on another subject, and in another part of this case, in regard to Cleaver's testimony in another matter, to show you from this printed book how that testimony was brought out. Whatever abuse the other side may choose to heap upon Mr. Ashley or anybody else who brought it out, certainly Cleaver did not deserve any abuse for the mode in which it came out, for you know it came out most reluctantly. He tried to keep it in. He was an Englishman. He was our enemy. He did not want to say a word about it. He told it in confidence to a fellow-prisoner. It was subsequently found out by a member of Congress, who indirectly got hold of it and made it known to the district attorney. It was forced out of him by power—not willingly. He did not mean to say a word.

I now come to another piece of testimony, which is very remarkable, perhaps the most so of any in this case, teeming in all its aspects, in all its fearful bearings, when you consider how it comes out, how unwillingly, how reluctantly it is made to appear—I mean the testimony of Mr. John M. Lloyd. Mr. Bradley, if I remember correctly, charged him with being a liar, and in the conspiracy. He also charged him with being a drunkard. I believe he drinks; I have no doubt about that. He was not drunk when he gave his testimony; he was not drunk when the officers of justice went after Booth and Herold, who passed his house to get the arms which the prisoner himself had there concealed; and when he told them he had not seen Booth, Herold, or anybody, he was not drunk. He lied to them; he says he lied to them. He says he knew Surratt; he knew Mrs. Surratt; he was Mrs. Surratt's tenant. He knew it would involve her in difficulty, and he wanted to shield her. He did want to shield her, and when we got him upon the stand we had to handle him with a delicacy not common; with a care that kept the mind alive, I can assure you. He would have concealed every important fact in this case if he could have done it. I believe no man rejoiced more at this murder than he. I believe that no man would have assisted in the murder sooner than he, and I agree with Mr. Bradley that he was a party cognizant of this crime, and, believing himself implicated, made every effort to conceal it. The testimony is strong upon that point. He tried to conceal it in giving his testimony. You will see when I read it:

Q. Will you state where you lived in the year 1865? A. I moved to Surrattsville about the last of December, 1864. I resided at Surrattsville up to October, 1865.

I now come to page 277. He is asked whether he knew Mrs. Surratt.

A. Yes, sir; my acquaintance with them was very short the whole time.

Q. Did you rent this house of her? A. Yes, sir.

Q. Did you know one David E. Herold? A. I knew David E. Herold; he was at my house on several occasions. I first saw him, I think, at Mr. Birch's sale.

Q. You saw him several times afterwards? A. Yes, sir.

Q. Did you see him at the conspiracy trial? A. I did.

Q. Did you know one George A. Atzerodt? A. I never knew him by that name until two weeks before the assassination. I used to call him by the name of Israel.

Q. By what name did the prisoner call him? A. Well, he came in there one morning with him, and laughingly stated something about somebody calling him "Port Tobacco;" this is the only time I ever heard the name made use of.

Q. Did you see him at the conspiracy trial? A. Yes, sir.

Q. I will ask you if you ever saw David E. Herold, George A. Atzerodt and the prisoner at the bar in company together? A. One morning, probably about five or six weeks before the assassination, Surratt and Atzerodt came to my house. Herold had been there the night before, and said that he was obliged to go to "T B" that night; he stopped in there and was playing cards; he played several games; the next morning Surratt and Atzerodt drove up.

You will note here that he stated Herold had been there that night and said he was going to T B. We shall bring the witnesses presently to show you what he did at T B, and what arms he had with him—I think you remember something about it.

Q. You saw the three men at your house at that time? A. Not until after that.

Q. When? A. About half an hour after that; Surratt and Atzerodt left and went down the road, and I supposed in the direction of "T B." They all three returned together, Atzerodt, Herold and Surratt.

Q. Now, we have them all three at your house; state what they did. A. There were several other persons besides them there at the time. I therefore paid no particular attention to them. They came in and took a drink, probably, and were playing cards, as well as I remember. After awhile Surratt called me into the front parlor, and said he wanted to speak to me. There I saw lying on the sofa what I supposed to be guns; they had covers on them. Besides these there were two or three other articles.

Q. State what the other articles were? A. One was a rope—a bundle of rope as big around, I suppose, as my hat, (a black felt hat of ordinary size;) it was coiled rope. I should think from the size of the bundle that there was not more than 18 or 20 feet in it. I took it to be an inch and a quarter rope.

Q. What other articles do you think of? A. There was a monkey-wrench.

Q. If you saw those things again would you be able to identify them? A. I cannot say that I could.

Q. State what the prisoner said to you about those things after he had shown them to you.

A. He wished me to receive those things and to conceal the guns.

This is the prisoner, you will recollect, before this murder, and these (pointing to carbines placed in evidence) are the guns, the very guns.

I objected to it and told him I did not wish to have such things in the house at all; he assured me positively that there should be no danger from them. I still persisted in refusing to receive them, but finally, by assuring me most positively that there would be no danger in taking them, he induced me to receive them. He did not say what sort of guns they were as well as I can remember.

Q. State what you did after you consented to receive and conceal them? A. I told him there was no place about the premises to conceal such things at all, and that I did not wish to have them there. He told me then of a place where he knew it could be done; he then carried me up into a back room from the store-room.

Q. Had you ever been in that room before? A. Never. I supposed the place was finally closed up. I did not know that there was anything kept there at all. I tried on several occasions to get in there to have it occupied as a servant's room, for persons passing backwards and forwards very frequently stopped there in the winter with servants, and I had no place to put them, but had to let them lie down stairs on my lounge.

He says he had never seen this place before, but Surratt knew it. Surratt took him to this secret place with the guns, the cartridge-box and the ammunition, as I shall presently show.

Q. After you and the prisoner went into this room with these articles, state what you did. A. I put them in an opening between the joists of the second story of the main building.

Q. Do you recollect of any other articles that you have omitted that he brought to you at that time? A. Nothing more was brought at that time.

Q. State whether or not there was any ammunition brought there? A. There was a cartridge-box brought there; whether it was full of ammunition or not, I am not able to say.

Q. Did you examine it to see whether or not there was any in it? A. No, sir. I did not examine anything at all.

Q. Did you conceal that with the guns? A. Yes, sir; that was put with the guns.

Q. What did you do with the rope and the monkey-wrench? A. I left the monkey-wrench and rope at Surrattsville when I moved away. What has become of them I cannot say.

Q. What part of that building did you deposit these articles in? A. I deposited them in the store-room.

Q. Explain that. A. The store-room is a place where we kept barrels of liquor and such like.

Q. It was not the same place where the guns were put? A. No, sir.

Q. State how long Surratt wanted you to keep these articles? A. He told me that he only wanted me to keep them two or three days, and that he would take them away at the end of that time. On that condition I consented, and that alone.

Now, taking Lloyd's own testimony, I will ask you to say if he did not know there was mischief brewing, for which these arms were concealed; have you any doubt about that? He admits himself that when the guns were called for he knew all about it, or knew enough about it to put him on his guard, and enough about it to have made him guilty.

Q. Did anything else pass between you and the prisoner at that time? A. Nothing more as far as I remember.

Q. What afterward happened between these parties? A. I do not know of anything particular happening after that, except that they engaged in playing cards.

Q. How long did they stay at your house playing cards after those things had been concealed? A. I do not remember distinctly, but probably half an hour.

Q. What did they then do? A. They left.

Q. Did they leave in company with each other? A. That I cannot say; I did not see them when they left. They all went out on the porch together, as well as I remember.

Q. When was the next time you saw the prisoner? A. I think I met him two or three days after that going down to Surrattsville, and I supposed at the time that he was going to take those things away; and I said nothing to him about them.

Q. Did you have any conversation with him at all? A. Nothing more than that he asked me if he could get his breakfast down there. I told him I thought so—some ham and eggs. I was on my way to Washington when I met him. He got his breakfast there, I think.

Q. Did you see him any more after that? A. I saw Surratt again after that, as well as I remember, on the 25th of March.

Q. Did you see him again before the assassination? A. I met him about a week after that on the stage, about four or five miles this side of Surrattsville, returning to Washington, while I was returning home. He was on the stage and I was in my buggy.

Q. Did you ever see him any more? A. No, sir; not until now.

Q. Did you see Atzerodt after this interview that you have described? A. I saw Atzerodt, I think, once after that.

Q. Where was that? A. I met him about at the Selbyville post office. That is, I met him twice that day. I met him once on the Navy Yard, and in the evening while he was coming on.

Q. Did you ever see them all in company together after that? A. No, sir; I think that was the only time I ever saw them all in company, that I remember of.

Q. You have stated that you knew Mrs. Surratt, and rented this house from her. I will ask you if you saw her shortly before the assassination of the President; and if so, when and where you saw her? A. I met her on two occasions.

Q. State where it was the first time. A. The first time I saw her was in Uniontown. I think it was the Tuesday.

Q. Previous to the assassination? A. Yes, sir.

Q. State in whose company she was? A. She was in company with a young man whose name I did not know. Since that time, however, I have discovered his name to be Weichmann.

Q. Where was she standing or sitting? A. She was sitting in the buggy alongside of Mr. Weichmann, in one of these high, narrow buggies.

Q. State if you had any conversation with her; and if so, state what was said by you both at that time.

The COURT. What day of the month?

The DISTRICT ATTORNEY. The Tuesday before the assassination is the way the witness fixes it in his mind.

WITNESS. She made use of a remark to me—called my attention to something that I couldn't understand.

Mr. MERRICK. Who did?

WITNESS. Mrs. Surratt.

Mr. MERRICK. Just state what was said, or the substance of it, not your understanding of what was said, or your failure to understand what was said.

WITNESS. I do not wish to state one solitary word more than I am compelled to.

We called upon the court, and the court told the witness that he was compelled to answer, and he finally did give a reluctant answer. This question was put by the court :

State what was said, as far as you recollect, whether you understood it or not.

WITNESS. She tried to draw my attention to something.

Mr. MERRICK. No matter what she tried to do. State what she did say and did do.

WITNESS. She finally came out and asked me about some shooting-irons that were there.

Now, this makes one feel very much as the prisoner did I read you about, in reference to the false *alibi*, where the man said when the jury went out, he felt such a chill come over him as he never had felt before. She finally came out and asked him about some shooting irons that were there.

Q. Where? A. At Surrattsville, as I supposed.

WITNESS. As well as I recollect, in speaking of the shooting irons, she told me to have them ready.

This was on the day of the murder, gentlemen—on the afternoon of that fatal day. How did she know that her son had concealed these shooting irons where they now lay in that secret room that even Mr. Lloyd had not known?

As well as I recollect, in speaking of the shooting irons, she told me to have them ready; that they would be called for or wanted soon, I forget now which. Either expression sounded to me as if it amounted to the same thing, for I was satisfied.

What was he satisfied about? He was satisfied that she knew of these secret arms. That she knew her son had concealed these arms. That, gentlemen, is not drawing any long inference from this evidence. Is it not a fair statement of it? What do you say about it? What will you say when you go before your God about it? What do you think about it now?

Q. Now state what you said to her? A. When she made this remark, I told her I was very uneasy about those things being there; that I had understood the house was going to be searched, and I did not want to have those things there; that I had a great notion to have them taken out and buried, or done something with.

Buried! as you bury a murdered corpse. Buried! Why buried, if they are innocent things?

Q. What did she say then? A. The conversation then dropped on that, and turned on John Surratt. I told her I had understood that the soldiers were after John to arrest him for going to Richmond. I had understood that he had gone there. She laughed very heartily at the idea of anybody going to Richmond and back again in six days, and remarked that he must be a very smart man indeed to do it.

Q. Anything more? A. That was about the substance of the conversation that passed between Mrs. Surratt and myself at that interview. It did not last longer than between five and ten minutes.

Q. Did you see her any more from that time until the 14th of April, the day of the assassination? A. She was there on the evening of the Friday of the assassination, I think.

Now we are down to the day of the murder. She comes there again, and what occurs? The evidence of the Tuesday's proceedings we have gone through with; let us see what she did upon the day of the murder.

Q. What persons did you find at home when you got there? A. I found a good many gentlemen there—I suppose some ten or twelve. I saw there, among others, Mrs. Surratt and this man Weichmann.

Q. State if you then had any conversation with Mrs. Surratt; and if so, on what part of your premises, and what that conversation was. A. When I drove up in my buggy to the back yard, Mrs. Surratt came out to meet me. She handed me a package, and told me, as well as I remember, to get the guns, or those things—I really forget now which, though my impression is that "guns" was the expression she made use of—and a couple of bottles of whiskey, and give them to whoever should call for them that night.

What are you going to do with that evidence, gentlemen? Will you brush it away? If so, when you come out I hope you will tell our fellow-citizens why; that you will explain it, and let it be known to the world. She gave the

witness a couple of bottles of whiskey and told him to give them to whoever should call for them that night. Why the guns? Why the field-glass? Why the cartridge-box? Why that field-glass taken by her from the city that day? Why the bottles of whiskey, to be called for that night? Who was to call for them that night? I go further now, and show what became of the package she took from the buggy.

Q. You speak of a package which she showed you at that time. What was it? A. I did not notice the package until probably an hour later or more.

Q. When did you notice it? A. I thought of it and carried it up stairs, and it feeling rather light, my curiosity led me to open it to see what it contained. I read in printed letters on the front piece of it, "field-glass." These letters were on a small part of it.

The field-glass is on the table before you, and you can see these letters there now, if you have the curiosity to read them.

Q. You discovered that about an hour afterwards. What disposition did you make of it at that time? A. I put it with the other things.

Q. You mean with the gun and cartridge-box? A. Yes, sir.

That gun and cartridge-box, put in that secret room, behind the joists, where he got them that night.

Q. Do you recollect of any of these parties to whom I have called your attention—Surratt, Atzerodt, or Herold—coming to your house that night, after this interview? A. Herold was there about 12 o'clock that night.

At a little after ten o'clock that night, as you remember, the murder was committed. Herold was there about 12.

Q. The same person who was at your house on Tuesday? A. Yes, sir.

Q. Who was in company with him at that time? A. I do not know.

He did not know who this was. We could not get him to tell, and only by some dexterity were we able to get it out of him. He was determined he would not tell that that was Booth. And when he saw that the counsel were trying to make it appear that he was so far off that he could not hear the conversation, and therefore could not give any evidence of what was said, he was ready to put him as far off as he could. Now let us see what he says here:

Q. State what Herold said about that time? A. Herold said when he came into the house—when I opened the door—"Mr. Lloyd, for God's sake make haste and get those things." He did not name what things they were.

He would not name what things they were. But he already admitted that he knew exactly what things they were. Mrs. Surratt had been there a little while before, and asked him to get these things ready.

Q. When he said that what did you do? A. I went up stairs and got them.

Q. What things? A. I got one of the guns, the field-glass, and the cartridge-box, which was all I could bring down at that time, and I did not go back any more.

Q. To whom did you give these things? A. To Herold.

Q. Did you offer anything to the other person? A. I do not think I did. I do not know whether the other person took anything or not. If he took anything at all, it was nothing more than a field-glass.

Then we had a great contest here about what should be told. Finally we asked him, When did you first hear of the assassination? He did not want to tell.

WITNESS. I will state that at the time this man was speaking to me as to what had been done, Herold was across the road. That is, as far as my memory serves me, I think he was.

THE DISTRICT ATTORNEY. At the time he was speaking of himself—complaining of having something the matter with him—was Herold present, or in such a position that he could hear what he said?

WITNESS. I believe Herold was present when he told me his leg was broken.

MR. BRADLEY. Has that anything to do with Herold?

MR. PIERREPONT. Yes, sir, it has.

THE COURT. The whole conversation, I presume, is evidence.

MR. PIERREPONT. In the presence of Herold, he said his leg was broken. What further did he say after saying that?

THE COURT. In Herold's presence and hearing.

MR. BRADLEY. The court will rule whether he can go on and state what passed.

You see the strong effort made to assist him in keeping Herold separate from Booth, as he was endeavoring to do. Now let us see what he further says :

WITNESS. He asked me if there were any doctors in that neighborhood. I told him only one that I knew of, Dr. Hoxton, about a half mile from there, but that he did not practice. He told me so himself. He said he must try and find one somewhere.

Q. Did he say anything about taking any gun? A. He was opposed to taking any gun, and opposed to Herold taking one.

Q. Why? A. Because his leg was broken.

Q. Did he, or Herold, mention his name at that time? A. No, sir; there was no name given at all.

Q. Did you have a good look at the man? A. I was close to him, but did not pay particular attention to him. He appeared to me as if he was drunk.

You see here the great struggle that occurred, and which finally resulted in bringing out that this was Booth from this reluctant witness. But we did at last succeed.

A. I do not remember that he said anything else. He may have done so, but if he did it has escaped my memory, except that portion that I was going to tell awhile ago, but was stopped.

Q. You were going to tell something else? A. Yes, sir; I suppose it will come out hereafter.

Q. You were going to tell something else that the man with the broken leg said, were you? A. Yes, sir.

Q. What was the condition of the moon at that time? A. The moon was up, but it appeared to me as if it had not been up very long.

Q. When did you first hear of the assassination?

Then objection was made by counsel in the most zealous way to our asking the question, "When did you first hear of the assassination?" We had a long debate, the court ruled, and my question was repeated.

WITNESS. I cannot answer that question.

We then had another struggle. The court told him he must answer, but he said he could not answer that question until the other was settled. I said to him :

You cannot say whether you heard of it a week afterwards, the day before, or that night? A. It might be the second time.

Mr. PIERREPONT. My question is not as to the second time. I ask you on your oath to state when you first heard of this assassination.

WITNESS. If I answer that question, it will come exactly in contact, in my opinion, with what has already been prohibited by the court.

The witness was very much afraid he should do something illegal in this testimony. He came to it as a legal question, and he would not answer it until the court directed him to answer it. I then repeated the question :

I now ask you when you first heard it?

WITNESS. On that ground then I cannot answer.

Well, we had a hard time of it, as you see. I said :

I do not ask you who stated it, I ask you when you first heard it?

WITNESS. That is the question I am to answer; I cannot answer it.

The COURT. You must answer that question, when you first heard the news of the assassination.

You see this witness had a legal opinion as to the propriety of his evidence, and it was only after a very severe reprimand by the court, and after all these efforts by counsel, that it was finally dragged out of him that he heard it that night.

Q. Were they then both before your house? A. One was there. I do not know that both were. Herold, I think, was across at the stable.

Q. That is the time you heard it? A. Yes, sir.

Q. You think the man with a broken leg was too far from Herold to have Herold hear him? A. I do.

Q. Could he see him? A. Yes, sir. There was nothing intervening between.

Q. You were close to the man with a broken leg? A. Yes, sir.

Q. Now, tell us what he said about the assassination. A. He did not tell me directly what he did himself. The expression he made use of, as well as I remember, was that "he" or "they" had killed the President. I did not understand which it was, "he" or "they."

Q. Did he say anything about any other man? A. Not a word.

Q. I mean as regards any other person being assassinated? A. I am not certain; but I think it is possible that he might have made use of Secretary Seward's name.

Q. What is your best recollection? A. I think it was him who spoke of it, but I will not be altogether certain about it.

Q. By what familiar or nickname did you hear Atzerodt called? A. I never heard him called very familiarly by any name, except on one occasion, when Surratt told me that some ladies had dubbed him "Port Tobacco."

Q. It was Surratt you heard call him that? A. Yes, sir.

Q. Was Herold present then? A. No, sir.

The hour of three having arrived, the court took a recess until Monday at ten o'clock.

MONDAY, August 5, 1867.

The court met at 10 a. m.

Mr. PIERREPONT, resuming his argument of Saturday, said:

I proceed with the testimony of Lloyd, which was nearly closed when we adjourned on Saturday. I read from page 399:

Q. You have stated that you knew Mrs. Surratt, and rented this house from her. I will ask if you saw her shortly before the assassination of the President; and if so, when and where you saw her? Witness. I do not wish to go into the examination of Mrs. Surratt, as she is not here to answer before this tribunal.

I next read from page 408:

Q. You state you took the paper off the package; what did you first see? A. My curiosity prompted me to open the cover of it. (The glass was here handed to the jury for inspection.)

Q. What did you find when you removed the paper covering? A. I found an instrument a good deal like this.

Q. As to the case? A. I found the case, I suppose, something similar to this. It was a leather case.

Q. You found that first? A. Yes, sir.

Q. Then you opened it? A. Yes, sir.

Q. Whatever Mrs. Surratt left there of this kind you gave to somebody that night? A. Yes, sir.

Q. Did you give it to the one with the broken leg, or Herold? A. I think Herold took it off. As well as I remember, I did not go outside of the gate until Herold took the things. I think Herold took them out.

At page 412, he says:

Q. Who was with Mrs. Surratt when you saw her? A. Mrs. Surratt was alone when I first saw her; she met me alone.

Q. Whereabouts in the back yard did you meet Mrs. Surratt? A. Near the wood pile.

At page 414, he says:

Q. Did not you testify before the military commission that you were asked by one of them if you did not want to hear the news?

This is on the cross-examination of Lloyd. He answers:

A. Yes.

Q. And that you replied you were not particular, or did not want to hear it? A. I told him he might use his own pleasure about that; that I did not care anything about hearing it.

Why did he not care about hearing? For the simple reason that he then knew all about it. He expected such news.

Q. And then they told you that the President had been killed, or that "we have killed the President?" A. "We," or "they," I do not remember which.

Q. At what time did the soldiers get down there? A. About eight o'clock. I had not been up very long.

Q. You say they told you that they had killed the President, but that you never thought much about it until the soldiers came? A. I thought the man was drunk. I paid no attention to it. He talked to me as if he was drunk.

Q. Do you recollect when the police officers came out there? A. I recollect when Clarvoe came.

Q. Did you tell Clarvoe that Herold had not been there? A. I do not recollect distinctly the question Clarvoe put to me. The soldiers had been there before he got there.

Q. Why cannot you recollect; were you drunk? A. I had been drinking that morning, and then I became frightened, after the soldiers told me what had been done. I did not know what to do or how to act.

Q. Try and recollect what Clavoe said to you. A. As well as I recollect, he told me there was money enough in this thing to make both of us rich, if I would give him information I possessed.

Q. Didn't you tell him then that neither of these men had been there? A. I may have done so.

Q. Don't you recollect that you did do it? A. I have not the least doubt I did do it. I did not want to be drawn in as a witness in this affair at all.

Now, let us see what reason is given by this man, a tenant of Mrs. Surratt, who is in the house, and to whom the guns had been given; who knew where they were secreted by this prisoner at the bar; who went with him and saw them secreted; who received this field-glass on that same day from Mrs. Surratt, and put it with those articles, and from whom he received on that day the injunction to have two bottles of whiskey and those shooting-irons and other things ready, as they would soon be wanted.

A. I have not the least doubt I did do it. I did not want to be drawn in as a witness in the affair at all. I knew that Mrs. Surratt's name would be drawn in, if anything was said, and I did not want to say anything about it.

That is the reason he gives you. He did know Mrs. Surratt's name would be drawn in; he knew that Mrs. Surratt's son and Herold had brought the arms there; he knew that Mrs. Surratt's son had hid them in that secret room; he knew that Mrs. Surratt had come there on the day of this murder, and told him to have those shooting-irons and other things ready, that they would soon be wanted, and likewise to have two bottles of whiskey ready. Well might he say, then, that "I knew Mrs. Surratt's name would be drawn in, if anything was said, and I did not want to say anything about it."

At page 416 he said:

Q. What time in the night was that? A. About midnight.

Q. Who roused you up? A. I think it was probably Herold himself.

Q. Hallooing about? A. Very likely.

At page 418 he says, in reply to a question from the court:

A. I will explain: In case of going before a court to give testimony, or anything of that kind, I cannot in justice to myself taste any liquor without possibly making me say something or use some expression that I would not wish to, or oftentimes making me forget things I do not wish to forget.

You will remember, gentlemen, the question I put to him. I asked him if he had any liquor on board then, but counsel on the other side objected to the answer. Counsel said you could tell as well as this witness could whether he had any liquor in him or not. Yes, you could tell; and you know very well whether he had any liquor in him or not; whether he was testifying or not as a sober man. You will also remember what a reluctant witness he was.

At page 420 he states further:

Q. In your examination in chief I understand you to say that Herold went down below your house; that he started alone, and the next morning came back with these carbines? A. The night before, Herold started alone; the next morning I saw his horse at my front gate.

I am reading this, gentlemen, to show you the connection of Herold and John Surratt with these guns and other weapons of death which had been concealed there:

Q. You did not see Herold bring them? A. I did not. I knew nothing about the carbines or anything of the kind until my attention was called to them in the front room.

Q. Herold, if I understand you, went down the night before, and the next morning came back, and when you came in you found the carbines in the room—who brought them you do not know? A. I was invited into the room by John Surratt.

Q. You do not know who brought them in? A. I do not.

Q. Do you know where Herold went that night? A. He told us in the bar-room that he was obliged to go to T B that night. It was getting very late when he left. I told him that I had one spare bed, which he might occupy if he wished.

Now I am going to take him to T B, and bring him up here to this place with these arms which this prisoner, in connection with Herold, concealed. Before

doing that, however, I want to pass, for one moment, to the subject of this glass, to show when and how it got there—a fact in evidence before you, and about which there is no dispute. I read from page 410 :

Q. Now I come to Friday morning, the day of the assassination; what occurred on that morning? A. On Friday morning I went to my office as usual; arrived there at nine o'clock. This was Friday, the 14th of April. Was at the office until about half-past ten, when an order came from the Secretary of War to the effect that those clerks under his charge who desired to attend divine service that day might do so.

Q. This was Good Friday? A. Yes, sir. I left the office and went directly to St. Matthew's church, at the corner of 15th and H streets. After service was over, about a quarter of one or one o'clock, perhaps, I went home to Mrs. Surratt's house.

Q. At what time? A. I got home at one o'clock or a little after one. I took some lunch, and then went up to my room and sat down and wrote a letter. About half-past two or twenty-five minutes after two, I heard a knock at my room door. In opening the door I saw Mrs. Surratt. She stated to me that she had received a letter from Mr. Charles Calvert about her property, and that it would be necessary for her to go into the country again and see Mr. Nothey, who owed her \$479, with interest on the same for thirteen years.

You will remember she had been there only the Sunday before.

Q. The same Mr. Nothey with whom you had seen her on the 11th? A. Yes, sir. She gave me a ten-dollar note with which to go and get a horse and buggy. As I went out the parlor door, John Wilkes Booth came in. He shook hands with me and then went into the parlor. I then went to Mr. Howard's stable and there saw Atzerodt, who was endeavoring to hire a horse. His request was not complied with. He could not get one. I asked what he wanted with a horse. "O," he says, "I want to send off Payne." I then went to the post office and dropped the letter I had written and returned to Mrs. Surratt's house.

Mr. BRADLEY. Did you get the buggy? A. Yes, sir.

Q. And you went back with the buggy? A. Yes, sir; I went up into my room for a minute or two, and as I passed the parlor door I saw Mrs. Surratt and Booth in conversation.

This was the day of the murder, gentlemen.

Q. What time in the day was this? A. I cannot state the precise hour. It was between twenty-five minutes past two and twenty to twenty-five minutes to three. Booth was standing with his back against the mantelpiece, with his arms resting on it, and Mrs. Surratt had her back towards him.

Q. What further? A. I went down to the buggy and Mrs. Surratt came down in a few moments, and was just about getting into the buggy when she said, "Wait, Mr. Weichmann, I must get those things of Booth's." She went up stairs into the house, and came down with a package in her hand. It was a package wrapped up in brown paper, tied round with a string, I believe, and, to the best of my knowledge, about five or six inches in diameter. I did not see the contents of the package.

Q. Did you see what was done with it? A. It was put in the bottom of the buggy. Mrs. Surratt stated that it was brittle. She said even that it was glass, and was afraid of its being wet. I then helped her into the buggy, and we drove off.

Q. On the way down, did anything occur of any note? A. Yes, sir; the buggy was halted once near a blacksmith's shop, about three miles from Washington, on the road to Surratt's ville. There were some pickets there on the left-hand side of the road near the blacksmith's shop. The soldiers were lolling on the grass, and the horses were grazing about. Mrs. Surratt had the buggy halted, and wanted to know how long those pickets would remain there. She was informed that they were withdrawn about eight o'clock. She said, "I am glad to know it," and drove off.

As you will remember, I read to you the other day the testimony of Mr. Lloyd, wherein he stated that this glass was brought there in the package; was put with the guns; and on the night of the 14th, after the murder, taken away by Herold.

I now again come to the guns; to the fact that the very guns which Booth and Herold took away from Lloyd's on the night of the murder, were brought there to Surratt's own mother's house by Herold from "T B," and secreted there by Surratt. I read from the testimony of Mr. Kaldenback, page 637:

Q. Do you know John M. Lloyd? A. Yes, sir.

Q. Do you recollect being there some time in the year of 1865? A. Yes, sir.

Q. State if at that time you recovered any fire-arm there; and if so, state the circumstances under which you recovered it? A. Yes, sir; I found a fire-arm there. I lived there then; it was about the 25th of April, 1865, or somewhere thereabouts; I found it in the partition between the plastering.

Q. What did you find? A. I found a carbine; it had a covering over it.

Q. Describe in what part of the house it was. A. It was between the dining-room in the main house and the kitchen, which was attached to the main building.

Q. Was it concealed? A. It was right between the plastering in the partition wall.

Q. Describe fully to the jury the examination you made, and what you discovered at that time? A. There were detectives there; I am not certain what date it was; somewhere about the 25th of April; this detective was there on that night; he told me there was a fire-arm there, and said I must find it; this detective and myself went in search of it, and after searching for it for some time I found it.

Q. Tell the jury how you found it, where it was concealed, and everything about it. A. I took a hatchet, knocked the plastering loose, and found it between the partitions; after I found it, I went for this detective before I removed it at all; he took it in his possession and carried it off.

Q. Who was this detective? A. His name was George Cottingham, a government detective, at that time stationed down there.

Q. State how it was that you happened to go to that particular place and find it? A. It was by the direction of Mr. Lloyd.

I now read from the testimony of Mr. Thompson:

Q. Where did you live in the spring of 1865? A. At T B.

Q. What were you doing there? A. I was keeping a hotel there.

Q. What was the name of it? A. The "T B Hotel."

Q. Do you remember anything that happened there at that time connected with Herold? A. Yes, sir.

Q. Tell us what it was. A. Herold came there some time in March—I do not know what time in March, 1865.

Q. What did he bring with him? A. A sword, a couple of carbines, and a couple of double-barrel guns.

Q. Anything else? A. I remember nothing else except a revolver.

Q. Nothing else? A. Nothing else that I know of.

Q. Who came with him? A. Nobody at all.

Q. What did he come in? A. He came in a buggy.

Q. What did he do with those arms? A. He put them in the bar-room until the next morning.

Q. What did he tell you? A. He told me that he was going down the Patuxent river shooting ducks.

"Shooting ducks," he says. You will observe throughout that wherever a letter is written, wherever an act is done, an excuse or reason is given for it, as is always the case, as I have before stated, when an effort is being made to conceal crime. There was no truth in this statement, as you will see presently from the testimony.

Q. Did he tell you he expected anybody there that night? A. Yes, sir; he said he expected John Surratt there.

Q. What did he do in the night? A. Nothing at all; he came there about 8 o'clock—our supper was over—and ordered supper. They had supper prepared for him, and he afterward went to bed.

Q. Did Surratt come there that night? A. No, sir.

Q. What happened the next morning? A. The next morning he got up, took his guns, and came back towards Washington.

Q. Do you know which road he took; the roads fork this side of your place, do they not? A. I do not know which way he took.

Q. Does one road go to Surrattsville? A. One road goes to Surrattsville, and the other to Piscataway.

Q. You do not know which road he took? A. I do not.

I now read from the testimony of Mr. Norton, at pages 630 and 631, on the same subject—these guns:

Q. Will you state where you lived in the month of April, 1865? A. At T B, Prince George county, Maryland.

Q. When did you see any arms? A. I saw some arms in the month of March, 1865.

Q. Where did you see them? A. I saw them at T B.

Q. Who brought them there? A. David Herold brought them there.

Q. What did he bring? A. He brought some guns.

Q. How many? A. Two.

Q. Did he bring anything else? A. He brought two carbines.

Q. Anything else? A. He brought a pistol.

Q. What else? A. He had a knife with him.

Q. Any ammunition? A. Yes, sir.

Q. What else? A. He had a rope with him.

- Q. Any other thing? A. He had a wrench.
 Q. Anything more? A. He had a horse and buggy.
 Q. What time in the day did he come? A. He came in the night.
 Q. What time in the night? A. About 8 o'clock.
 Q. What did he do with the things he brought? A. He took them out of his buggy.
 Q. What then? A. I carried them into the bar-room.
 Q. Then what did you do with them? A. I did not do anything more with them that night.
 Q. Did you or he do anything more with them? A. Yes, sir.
 Q. Did he the next morning? A. He fired his pistol off.
 Q. Did he do anything more? A. He went away after breakfast.
 Q. Did he take the arms and ammunition all with him? A. Yes, sir.
 Q. Do you know which way he went?

Mr. Lloyd has told you which way he went and where he went. On page 632 he says:

- Q. What did Herold say to you about Surratt? A. He asked me if Mr. Surratt had been there. I told him he had not; he said he expected he would be there.
 Q. Did he tell you at what time he expected Surratt there? A. He said he expected him there that night.
 Q. What time in the night was it that he said that? A. That was shortly after he came there.
 Q. Did Surratt come that night? A. He did not.
 Q. Did you see him that night? A. No, sir.
 Q. When did you see Surratt after that? A. I saw him on the 3d of April, 1865.
 Q. Where did you see him? A. At T B.

Now we see how these carbines got to Lloyd's. He has told us that Herold came there that morning with them from T B, and that he (Lloyd) met Surratt there with them; that Surratt took him into the parlor where the guns lay, and told him where to conceal them; that he did conceal them in the place pointed out, but that he did so reluctantly. He further told us that after the murder was committed Herold came, in company with Booth, and took the guns away. One of these guns was subsequently taken away from the barn down in Virginia where Booth was shot, and brought here. It is now before you. I understand counsel on the other side to have asked us in the progress of this cause to connect one thing with another; and they have frequently moved the court to strike out certain evidence because it was not connected. I think it will occur to you that *this* is tolerably well connected. Here we have Herold at a tavern at T B, a little below Surrattsville, with these guns. He expected to meet Surratt at T B that night, but the latter failed to go there. The next morning Herold takes the guns and goes to Surrattsville and leaves them there in the parlor of Lloyd's hotel. Surratt calls in Lloyd, and then goes with him to hide the guns. The guns are hid, and then, when the murder is committed, Herold goes there and gets them. Mrs. Surratt, on the very night of the murder, takes this glass to Lloyd's, has it put with the guns, and tells him (Lloyd) to have two bottles of whiskey ready; that those shooting-irons will soon be wanted. Now, won't you tell me, gentlemen of the jury, how Mrs. Surratt knew about these shooting-irons? She was not there when Herold took them to that place, nor was she present when her son concealed them behind the plaster. Who told her, then, about those guns? Will you answer that question, gentlemen? How did Mrs. Surratt find out, on the day of the murder, when she took that field-glass there, that those concealed shooting-irons would be wanted soon? Again I ask, how did she find out, on the day the night of which the murder was perpetrated, that her son had hid those shooting-irons there, and that they would be wanted that night, she not having been present when they were brought, or when they were concealed? Does it need any answer? If it does, I will read to you the answer given by one of their own witnesses from Prince George's county—old Mr. Watson—page 746. You will there see the reason that he gives. It is the true reason. There cannot be any doubt of that, for it is one that will commend itself to everybody:

Q. In this conversation you speak of, you took sides with Mr. Bingham; you said you thought Mrs. Surratt was guilty, did you? A. Yes, sir; and think so yet.

At page 727 he testifies as follows:

Q. In this conversation you had with Mr. Tibbett, you told him you believed Mrs. Surratt was guilty? A. I did; I told him I believed she was guilty; and I think that every man—

Mr. Merrick stopped him there, and thus prevented him from completing his answer. "I think that every man"—every man what? That every man who has heard this evidence knows and feels that Mrs. Surratt was guilty. From all the facts connected with the bringing of those guns to this house, their concealment, and the placing of the field-glass with those articles, will not every one say that old Mr. Watson is right when he says, "I did say she was guilty, and I think so yet?"

Now, if Mrs. Surratt knew where those arms were concealed, she of course got that information from somebody. From whom did she get it? Isn't it more than probable that she got such information from her own son, a full grown man, who had concealed them with his own hands? Herold brings them from T B; Surratt meets him there, and calls Lloyd into the parlor. Surratt points out the secret place where they can be concealed, and his own mother goes, on the day of the murder, and tells Lloyd the shooting-irons will be needed, as also the field-glass, and that they will be called for soon, and tells him to have two bottles of whiskey ready. And you will remember these things were called for before 12 o'clock that night. Gentlemen, how are we to dispose of this matter? What do your honest minds say about it? It strikes me that there can be but one opinion regarding it. Every honest man, it appears to me, must entertain the same opinion as that expressed by old Mr. Watson on the stand. There is no escaping from the fact that Herold, Surratt, and his mother were all combined together in this matter; that the knowledge of the one was the knowledge of them all.

I now come down to another little piece of evidence in the same connection. It is the testimony of Justice Pyles, from the same county, who also was an unwilling witness. He says John Surratt came to him to get some papers executed. He did not know exactly what they were. I will read from his testimony, page 386:

Q. State how long prior to April, 1865? A. I did not commit that to memory. I think about three months, as near as I can recollect, before the assassination of Mr. Lincoln. About that time I had left home; I was working at my father's, or lower place, some mile or so from there. Mr. Surratt came down there for the purpose of getting me to sign some papers. I really cannot tell anything regarding the import of those papers.

Q. To get you to sign some papers? A. Yes, sir; as a justice of the peace, in order to make them legal.

Q. State what he said to you in regard to the object of his visit. A. Well, he seemed to be urgent to have me sign the papers, and having no pen, ink, or anything of the kind at the place, we proposed to go over to my brother's, about a quarter or half a mile off, and get pen and ink there. We started, and going along I asked him about his business, and so on. The draft was on hand at that time, and I asked him about it. He said either that he wanted to get some money, or to fix some papers to leave for his mother, or something of that kind. He told me he wanted to go away. I asked him where, or something of that sort, for I did not want him to go away, he had been in the neighborhood so long; and he said he wanted to go away to avoid the draft.

What these papers were we do not know. They are one of those little things that appear in the progress of a cause of this kind. These papers were to be drawn up for some purpose. They were drawn up before a magistrate. Now, what were they? The preparation of these papers undoubtedly meant something. This testimony was given early in the case; and, if they had not meant something, counsel had ample opportunity to have it all explained away.

We now come to the testimony of another witness of theirs—Mr. David Barry. It is a matter, brief but of much import. It will be found on page 873:

Q. Take that letter (letter exhibited to witness in direct examination) and look at its date. A. Yes, sir; the letter is dated March 26, 1865.

Q. Can you tell the jury now the date when you came up here with these horses? A. It was the 26th of March, 1865.

Q. Sunday? A. Yes, sir; Sunday.

Q. They were gray horses? A. Yes, sir; both gray horses.

These horses were the horses that Mrs. Surratt, Mrs. Slater, or Mrs. Brown, as she is sometimes called, and John Surratt took from Brooke Stabler's when they went down in the country.

Q. When you brought the horses you took that letter to the stable? A. Yes, sir.

Q. And when you had done that you went to Mrs. Surratt's house? A. Yes, sir, in the course of the evening.

At the bottom of the page will be found the following:

Q. Now please state to the jury when you saw her in the passage? A. The day before, which was Saturday, the 25th of March.

Q. And then you saw a woman who John told you was Mrs. Brown? A. Yes, sir.

How many names Mrs. Slater went by I do not know; but it seems she was at this time called Mrs. Brown. The record goes on:

Q. Where did you see her last? A. In Port Tobacco.

Q. Who was with her? A. John Surratt.

Q. What did John Surratt tell you he was going to do? A. He told me he was either going to put her in safe hands to be taken to Richmond, or, if necessary, he would take her to Richmond himself. He sent this message to his mother: that if he did not cross the river he would be home the next day by the stage; that if he did not cross the river, he would return as soon as he could.

Now, this is the testimony that their own witness, Mr. David Barry, gives of the conversation he had with Surratt on the day after he had taken these gray horses and had gone down there to Port Tobacco. The woman "on the brain" that he wrote about in a letter to old Brooke Stabler, was this woman, Mrs. Slater, or Mrs. Brown, whom he wanted to get to Richmond. He sent word to his mother that if he could get her across the river he would return in the next stage; if he could not, he should go to Richmond with her. That is what he was going to Richmond for, and this, you will remember, comes from their witness, and not from ours.

Q. The last time you saw Surratt he was in Port Tobacco? A. Yes, sir, on the 26th of March.

Q. Describe this woman he called Mrs. Brown. A. She was a rather slim, delicate woman. I think she had black eyes and dark hair. I do not recollect whether I saw her with her bonnet off. I think she wore her veil down nearly all the time. I saw her at the table.

Q. She was delicate in size? A. I think so; that is my recollection.

Q. What was her age, about? A. I should say she was under thirty.

At page 872 this same witness says:

Q. Proceed and state whether you, in company with John Surratt, went from that place anywhere else; and if so, where you went. A. Yes, sir; I accompanied them to Port Tobacco.

Q. How long did you remain at Port Tobacco? A. I should like to say why I went to Port Tobacco. There was a man in Port Tobacco who belonged to the signal corps of the confederate army. I was anxious to see him in order to get information from two sons I had in General Lee's army. I understood from a man by the name of Howell, represented to be a blockade-runner, the day before Surratt came down, that he was at Port Tobacco. I mentioned it to Surratt, and asked him if he knew whether this man was there. He replied, "Yes." How he got his information I forget. He then offered me a seat in his carriage, remarking at the same time that it was somewhat doubtful whether he returned himself, but said if he did not return I could drive the carriage back; that he intended to see a lady he had in charge across the Potomac river, and, if necessary, to Richmond.

Q. You staid all night at Port Tobacco? A. I did.

Q. Now state whether Surratt wrote any letter in your presence, and whether you brought it to this city. A. Yes, sir; I think he did. (Exhibiting letter of the prisoner to Brooke Stabler, relative to returning horses, dated March 26, 1865, heretofore placed in evidence.)

This gentleman, who had two sons in the rebel army, comes here on the stand—brought by the other side—and states to you these facts. He has told the truth, and so will every honorable rebel when he is testifying under oath on the stand. A brave man will always tell the truth. As I said to you the

other day so I say now, that I would select from the 13,000 rebel prisoners who passed those resolutions at Point Lookout any twelve to try this case, and I would have no doubt that they would bring in a verdict according to the evidence. All men of honor, all men who are brave, while they may be misled, will always tell the truth. It is only the coward and the dishonorable man who will tell a lie. The wicked man and coward is the one who is afraid to do his duty; the upright and the honorable man is always as bold as a lion. It is the wicked that "fleeth when no man pursueth."

I next come to the testimony of Mr. Smoot, which will be found on page 310. Mr. Smoot was not, as you saw, a very willing witness. Whether he was a frightened witness or not, I do not know, but he lives down in that county where the sympathy of the people, as a general thing, is with the prisoner, and he might have been afraid of the effect upon himself of the testimony that he would have to give here, or he might have been frightened by what Mr. Merrick said to him before he came upon the stand; for he himself told us, under oath, that he had been spoken to by Mr. Merrick about his testimony in this case, and had been told by him that he (Merrick) was after him with a sharp stick. Let me read his testimony on this point, so that there may be no mistake about it, for I told you that I did not intend to comment on any evidence that I had not read to you word for word as it was given.

(By the ASSISTANT DISTRICT ATTORNEY:)

Q. Have you not been to Mr. Merrick's office since you have been in the city? A. I passed Mr. Merrick's office yesterday morning.

Q. How often have you been to Mr. Merrick's office? A. Only once.

Q. Have not you been talking with Mr. Merrick on the street about this case? A. Yes, sir; he asked me some questions about it. He said he was after me with a sharp stick, or something of that kind.

Now, whether he was terrified by Mr. Merrick's "sharp stick" or not, I do not know. I know, however, that we experienced great difficulty in getting him upon the stand. You heard his name called more than a score of times. Mr. Smoot, Mr. Smoot, Mr. Smoot resounded through this court-house for more than two days before we could get Mr. Smoot on the stand, so reluctant was he, for some reason, to appear and give his testimony. Let us see what he says when we did get him:

Q. Do you recollect of his paying you a visit when you were living in Prince George county, near Surrattsville, some time, I think, in the month of January or February, previous to the assassination? A. Yes, sir; I recollect he was at my house on one occasion.

Q. Which month was that? A. I disremember now. I know it was in cold weather—soon after I moved there.

Q. How long did he remain with you on that occasion? A. He went to my house at night, and went away the next morning—he staid the night there, that is all.

Q. Will you state if you had any conversation with him at that time? A. Yes, sir; I was talking with him.

Q. State what the conversation was. A. I do not recollect the exact conversation. We were talking about different things all the while.

Now, that is the answer that he gave to the district attorney's question. He knew what the question related to, for he had had conversations with Mr. Carrington upon this subject, and yet he gives the reluctant, evasive answer that I have just read to you.

Q. Go on and state, if you please, how he employed himself at that time? A. I saw him very often. I was joking him about his going to Richmond. He never acknowledged to me that he had been to Richmond, but laughed and said: "If the Yankees knew what he had done, or what he was doing, they would stretch his neck."

What was he doing in the month of January or February, just before this murder, which led him to believe that, if the Yankees knew it, they would stretch his neck? Why did he think they would stretch his neck if they knew what he was doing and what he was going to do? He did not think they would stretch his neck because he was living here in Washington, faithful to

the government that protected him, and without having violated any law, did he? or did he think they would stretch his neck for being engaged in a conspiracy against the government—a plot to murder its chief? I will read a little further:

Q. Describe his manner when he made use of that remark. A. He smiled, and raised his head up in this way, (witness throwing his head back in illustration of the manner,) and said: "They would stretch this old neck of mine."

Now, won't you ask the counsel why they didn't tell you the reason he thought they would stretch that old neck of his? It never occurred to you or one of your sons, did it, that the government would stretch your or his neck, if they knew what either of you was doing, or was going to do? He knew what he had done, and he knew what he was plotting to do; and he knew, if the government were made aware of it, they would, as they ought, have stretched his old neck. "Out of the abundance of the heart the mouth speaketh." It is always thus. A man cannot keep secret a crime so heinous as this. Even before the crime is committed, he will in some way or to somebody reveal it, for "out of the abundance of the heart the mouth speaketh." Did you ever notice this fact? If not, note it now. If a man's heart is full of anything—I do not care what it is—and that is the burden of his heart, and you stay with him over night, talk with him at the supper table in the evening; by the fireside, after your tea and before you go to bed; and then again the next morning when you get up and take your breakfast, if you don't say much yourself, you will find that he unconsciously to himself will drop out something or other, which, you being led afterwards to put with some other thing that you know of, will reveal the secret of his heart. It may be that such burden relates to some business or political matter in which he is deeply interested, or some great crime which he has committed or is about to commit. This fact is well understood in diplomatic circles, and many times men resort to the mode I have spoken of for the purpose of learning the secrets of a prime minister of the government. A skilful diplomatist, anxious for information, will call upon the officer whom he thinks can give him such, and in conversation at meals and the fireside, in a quiet and unsuspecting manner, will draw from him such facts as he wishes to know, and then, perhaps, communicate them to his government. As in great affairs, so in smaller ones.

I call your attention, gentlemen, now to page 508. We now have Surratt in Washington, after he had left T B.

Q. What time in the evening of the third of April did he leave the room? A. He left there about 7 o'clock.

Q. What did he say? A. Between half past six and half past seven he asked me to go down the street with him and take some oysters. He was dressed in gray clothes, with a shawl thrown over his shoulders. He told me that same evening that he was going to Montreal. We got the oysters near Four-and-a-half street and Pennsylvania avenue.

Q. Did he tell you the day he left Richmond? A. No, sir.

Q. After eating the oysters, what occurred? A. We walked back as far as the Metropolitan Hotel, and there he bade me good night. He said he would correspond with me when he got to Montreal. I have not met him since except to-day.

Q. On the 5th of April, what occurred? Did you observe Booth or Herold? A. Booth was at the house between the 3d and 10th of April, on one or two occasions. I remember on one of those occasions a letter was received.

Q. What time in the evening was this the case? A. About 7 or 8 o'clock.

Q. In the parlor? A. Yes, sir. I walked into the parlor. Booth was sitting on the sofa. Mrs. Surratt was in the room, and a young lady; and Miss Anna Surratt was directly opposite Booth. I sat down at the other end of the same sofa on which Booth was sitting. After conversing for a while around the room, Booth got up and said: "Miss Ward, will you please let me see the address of that lady?"

Just here, gentlemen, I will call to your mind the fact that Miss Ward has not been produced.

The witness goes on:

Miss Ward advanced to meet him in the centre of the room, and handed him a letter. After

Booth and Miss Ward had gone out, Anna Surratt got up and said, "Mr. Weichmann, here is a letter from brother John," and read the letter. No lady's name was mentioned in it.

Booth was there in the room; here was a letter from John Surratt, and Booth wanted to conceal from Weichmann, who was there, from whom the letter was. Booth said he wanted to see the address of that lady, but it turned out that there was nothing regarding a lady about it.

At page 509 the witness says :

On the evening of the tenth Mrs. Surratt asked me if I would not be kind enough to drive her into the country on the morning of the 11th of April. I consented.

Q. What day of the week was that? A. That was Tuesday.

Q. Did you go with her? A. Yes, sir; the following morning.

Q. What time did you leave? A. She said to me, "Mr. Weichmann, won't you go round to the National Hotel and tell Mr. Booth that I sent you for his horse and buggy, and desire to know whether I can have it." I did go to the National Hotel, and found Booth in his room. I communicated my message just as Mrs. Surratt had told me. He said, "I have sold the horse and buggy, but here is ten dollars: go you and hire one."

Thus it appears that Booth furnished money for Mrs. Surratt to go into the country on this fatal errand to aid in this fatal expedition. I read on :

In speaking about the horses, I said to him, "I thought they were John Surratt's horses." "No," says he, "they are my horses." I left the hotel, and went to Howard's stable and hired a horse and buggy. I then went to Mrs. Surratt's house. We left the house about half past nine o'clock. As we were on our way down to Surrattsville we met Mr. John M. Lloyd.

On page 510 the witness continues :

Q. After this conversation what did you do? A. I drove to the tavern.

Q. What occurred there? A. She wanted to meet a Mr. Nothey there, but when we arrived at Surrattsville, at half past 2 p. m., Nothey was not there, and she had a messenger despatched for him, with word that he should meet her there at 2 o'clock. We then drove further on to Mr. Bennett Gwynn's, where we took dinner. After dinner, Mr. Gwynn, Mrs. Surratt, and myself returned back to Surrattsville.

Q. What occurred there? A. Mrs. Surratt went into the parlor, and this time found Mr. Nothey there. She had an interview with him.

Q. Then what occurred? A. I do not know what occurred. I was not in the parlor when they had this interview.

Q. I only ask what you saw and heard? A. After they had concluded that business, Mrs. Surratt got into the buggy and returned to town.

I now bring your attention back to this 3d of April. On the morning of the 3d of April, we found Surratt at T. B. In the afternoon of that day he left and came to Washington, reaching here about 6½ o'clock. At 7 o'clock he went with Weichmann to an oyster saloon and took some oysters. He then stated that he was going to Montreal. Weichmann and he parted at this saloon, and he, Surratt, did not return to the house again that night, nor is there any pretence that he did. He shook hands with Weichmann on parting, and promised to write to him from Montreal. The reason I call your attention, gentlemen, to his leaving his mother's house on this occasion in company with Weichmann and not returning again that night, is for the purpose of showing you that the attempt which has been made here to prove that it was on that night that Susan Ann Jackson saw him there, is a failure; that it was utterly impossible for the fact to be as they hold. She neither saw him there at that time, nor was that the time when the clothes were left there to be washed. I will show you presently, however, at what time the clothes were gotten out to be washed, and whose clothes were gotten out for that purpose. Their own witnesses showed a short time afterwards what a terrible fact Holahan had proved when he testified that, on going there the week after this murder, he found Surratt's handkerchief lying on the bed, clean, and apparently just brought from the wash. I have no doubt that what Holahan states is the truth, but they had no idea what an unfortunate fact for their case it would prove to be. Susan Ann Jackson told you that on that Friday night some clothes were left out on the bed there, and that Mrs. Surratt told her they were her son John's

clothes. This she said was somewhere about 9 o'clock in the evening, after they had all had supper and cleaned off the table, and that John came there some time after this, on this same night, which was the night of the murder, and that she had an extra pot of tea made for him. The clothes which were taken out, and which Mrs. Surratt said were John's clothes, were no doubt the ones that Holahan saw on the following week. This is the way that the Almighty, in his inscrutable wisdom, brings out the truth—yea, even from those who are trying to conceal it.

I now call your attention to page 512:

A. We left Surrattsville on our return home about half-past six in the evening.

Q. What occurred on the way home with Mrs. Surratt; was she very cheerful on the way returning? A. On our way home she said she was very anxious to be home at nine o'clock; that she was to meet some gentlemen there.

Q. Did she state who? A. I asked her who it was, if it was Booth. She made no reply.

Q. What further occurred in returning? A. I further stated something about Booth's being in the city here and not acting; I asked her why he was not acting. Her reply was: "Booth is done acting, and is going to New York soon, never to return." She turned round to me and asked if I did not know that, or if I did not know that Booth was crazy on one subject. I told her I did not. What that one subject was she never stated to me. On our return we met the pickets I had seen stationed on the left side of the road as we went down. The soldiers at this time were on their horses, returning to the city. Our buggy passed right between them. I should suppose there were four or six soldiers on horseback, and I remember distinctly that the buggy passed right between them.

Q. When you got on the hill in front of the city did anything occur? A. Yes, sir; just about two miles from Washington there is a very high hill, which commands a fine view of the city. That evening of the 14th there was a brilliant illumination in Washington, on account of the restoration of the flag over Fort Sumter. I made some remarks to Mrs. Surratt, saying that it was better for the country that peace should return. She said, "I am afraid that all this rejoicing will be turned into mourning, and all this gladness into sorrow."

No doubt she feared so. She had just left Lloyd, whom she had told to have those shooting-irons and two bottles of whiskey ready; that they would be wanted soon. She could not help saying "that all this rejoicing would be turned into mourning, and all this gladness into sorrow." Why did she say so? Why did she feel it? Because she knew what arms had been concealed at Lloyd's house, and what was the purpose of their concealment there. She knew what terrible plot was on that very night to be carried into execution, and she could not avoid this sudden outburst. There was nothing very unnatural in this, when her heart was so full of this terrible crime.

I want you to note the time of day, for it has a bearing upon the question as to the time when Susan Ann Jackson saw this young man at the house, and took the clothes to wash.

I will read on:

A. Just as we came into Pennsylvania avenue, near the Capitol, we saw a torchlight procession coming either up or going down the avenue. The horse shied at the brilliant lights, and we were compelled to turn up Second street.

This was not in the daytime, but just about 9 o'clock, and she wanted to get home at 9 o'clock, you will remember.

Q. After turning from the torchlight procession, where did you then go? A. We arrived at home at 9 o'clock, or a few minutes before nine. I helped Mrs. Surratt to get out and then returned the buggy. We left Surrattsville at half past six, and it takes two hours or two hours and a half to come to Washington.

Now, nobody has disputed this. We all agree upon the time they left and upon the time they arrived here, which was at 9 o'clock.

I returned the buggy to Howard's stable, which was right back of Mrs. Surratt's house on G street. I then immediately returned home. I then went down and partook of some supper. Mrs. Surratt the same evening showed me a letter which she had received from her son. While I was sitting there eating supper with Miss Fitzpatrick, Miss Jenkins, Miss Serratt, and Mrs. Surratt in the room, I heard some one very rapidly ascending the stairs.

Q. What occurred with Mrs. Surratt after the footsteps descended the stairs; did she come down or remain up? A. She remained in the parlor. After supper I went into the parlor, and the young ladies who had been at supper with me also came into the parlor.

We sat and talked there. Mrs. Surratt once asked me where the torchlight procession was going that we had seen on the avenue. I told her that I thought it was a procession of arsenal employés going to serenade the President. She replied that she would like to know very much, as she was interested in it. As I recollect now, her manner appeared to me to be very nervous and very restless. I once asked her what was the matter. She said she did not feel well. She had some prayer beads in her hand—she was walking up and down the room. She once asked me to pray for her intentions. I asked her what her intentions were, and said I never prayed for any one's intentions unless I knew what they were.

You remember Miss Honora Fitzpatrick told you the same thing. She said that she did not hear Mrs. Surratt say what Weichmann had testified to, but she said Mrs. Surratt was walking up and down the room.

I now refer you to page 520 :

Q. How often was Booth at Mrs. Surratt's house two or three months prior to the murder? A. He came very frequently. It was a very common thing for me to see him in the parlor with Surratt, when Booth was in town, after 4 o'clock. They appeared like brothers.

Q. Was there any term by which Booth was called? A. Mrs. Surratt appeared to like him very much.

Q. What term did she use in speaking of him? A. I heard her once, when Booth had staid two or three hours in the parlor, call him "Pet," saying, "Pet staid two or three hours in the parlor last evening." I am positive she used the word "Pet." She named the hours from 10 at night until 1 in the morning.

At page 521 will be found these remarkable telegrams that Booth sent. Here are the original in his own handwriting, so there can be no mistake about them. It seems that those that he had and expected to have in his employ received their communications and their orders direct from him from time to time. You will recollect that I showed you the other day this card [exhibiting the card] in which J. Harrison Surratt writes: "I tried to get leave, but could not succeed." As you will recollect, we proved that he tried to get leave from Adams's Express Company, but failed to do so. Booth did not like to have any of these men engaged in this conspiracy allow their business to interfere with the execution of their plans. He therefore telegraphed in these words :

NEW YORK, March 13, 1864.

To Mr. McLaughlin, No. 57 North Exeter street, Baltimore, Md. :

Don't you fear to neglect your business. You had better come at once.

J. BOOTH.

Mr. PIERREPONT explained that the telegram was written on a printed blank marked 1864, but on the back of it was an indorsement 1865, and he had no doubt 1865 was the proper date.

Mr. PIERREPONT made the same explanation as to date being 1865 instead of 1864.

NEW YORK, March 27, 1864.

To Mr. McLaughlin, No. 59 North Exeter street, Baltimore, Md. :

Get word to Sam, to come on. With or without him, Wednesday morning we sell—that day, sure. Don't fail.

J. WILKES BOOTH.

We suppose the "Sam." mentioned to be Sam. Arnold, who was one of the conspirators, but that we do not know. I do not undertake to state things that the evidence does not warrant. I have a right to infer, however, when Sam. Arnold is proved to be one of the conspirators, and has taken his pay for it, that he is the one alluded to.

"With or without him, Wednesday morning we sell—that day sure. Don't fail."

You will remember that the thing they were selling was "ile," as they called it. They were going to strike "ile," and when the thing was done, then they were to sell the "ile" stock and make a great deal of money out of it.

I now turn to page 525, and show you the letter which, on the 12th of November, 1864, Surratt wrote to Weichmann. Here is the letter, and here is the

card, [exhibiting the same to the jury.] You can at once see by looking at them whether an expert is necessary to determine the question as to whether they were written by the same party. Here is a card which nobody disputes, and here is another letter to Atzerodt which nobody will dispute. It does not require the eye of an expert, either, to be able to perceive that they are exactly alike. There is a curious fact connected with one of these letters. This letter Surratt commenced to write in the same hand as he has written the card, but before he gets to the bottom he completely changes it. You can hardly find two handwritings more unlike than that at the commencement of this letter and that at the close. He seems to have considerable skill in that kind of thing—in writing in two or three different hands. Some men, I know, possess the capacity to do this; I do not. Now, let us see what this letter is:

SURRATTSVILLE, November 12, 1864.

DEAR AL: Sorry I could not get up. Will be up on Sunday. Hope you are getting along well. How are times—all the pretty girls? My most pious regards to the latter; as for the former, I have not a continental d—m. Have you been to the fair? If so, what have we now? I'm interested in the "bedstead." How's Kennedy? Tight, as usual, I suppose. Opened his office, I hear. Fifty to one 'tis a failure. Am very happy I do not belong to the "firm." Been busy all the week taking care of and securing the crops. Next Tuesday, and the jig's up. Good bye, Surrattsville. Good-bye, God-forsaken country. Old Abe, the good old soul, may the devil take pity on him.

Test:

SURRATTSVILLE, MD.

To LOUIS J. WEICHMANN, Esq., Washington, D. C.

JOHN H. SURRATT.

You will notice the word "bedstead" in this letter. What do you suppose it means? I do not know, but I am pretty sure it does not mean a bedstead.

I now turn to page 526, where we learn a little more about the oil business.

Q. Did you hear anything said by Mrs. Surratt or John about a cotton or "ile" speculation? A. Yes, sir. Shortly after Surratt's introduction to Booth, Surratt told me that he was going to Europe; that he was engaged in cotton speculations. He stated this in the presence of his sister.

No sister has been brought to deny this. No inmate of the house has been brought to deny this statement, nor any part of it. But I continue the reading:

He said that \$3,000 had been advanced to him by some elderly gentleman residing in the neighborhood.

That was rather odd, wasn't it, that this elderly gentleman should be advancing to him \$3,000 for him to engage in cotton speculations with? He did not tell us who he was, and we have not seen him. The statement goes on:

And that he was going to Liverpool, from Liverpool to Nassau, and thence to Matamoras, in Mexico, to find his brother Isaac. He was in the habit of stating that very frequently.

Why, I suppose he did state it very frequently, because there was not a word of truth in it, and no intention of that kind; but it was said simply to divert the mind from the real purpose of the conspiracy.

You will notice, gentlemen, that we have not had any evidence about the oil speculations that Booth was said to have gone into. We had his testimony early in the case. You do not find that Booth, as far as the evidence goes, ever entered into any oil speculations in reality, but you will find, when you read his letter, where he says "strike, and strike deep," that the oil he wanted was the blood of that great and good man whom he so foully murdered.

Now, gentlemen, we pass to another subject, and one you will all remember. It is general, and yet it is particular. It relates to this subject very directly, although at first view it would seem to be indirect. Let me take you back to the time of the Charleston Convention, in the month of May. The great democratic party of this country there met for the purpose of nominating a candidate for the Presidency of the United States. They had the power absolutely in their hands. Mr. Lincoln had already been nominated by our adversaries before the final action. All of us knew that if we made a wise nomination we could elect

the man we put forth, if we went into it heart and soul and shoulder to shoulder, as we had done in former years. What happened? When the convention met, those who loved their country and loved its government were willing to make every sacrifice for harmony, but those who were determined to put an end to their government succeeded in breaking up that convention, and putting an end to a cordial and harmonious nomination of some member of the democratic party who could have been elected, and whose election would have had the effect to avert this terrible calamity of a civil war through which we have passed. The leading men in this conspiracy against the government desired, and intended, if they could possibly do it by any effort of theirs, to have Abraham Lincoln elected. They desired an excuse to break up this government and establish a new one, in order that, as one of them told me with his own lips, they might have a government composed of gentlemen, in which gentlemen should rule, and in which the negro and the low white should take no part, except as the laborer of those who governed. That was their wish and their aim. They succeeded to a certain extent. Mr. Lincoln was elected. Then came various plots and plans looking to the destruction of the government. One was to force Buchanan to resign in order that Breckinridge, the Vice President, might be placed at the head of affairs, and by means of his influence as President, and the powers invested in him by virtue of his office, prevent the inauguration of Lincoln on the ground that he was not constitutionally elected. That failed, and then a plot was entered into for the purpose of preventing his inauguration by force in another way. Mr. Lincoln was, however, finally inaugurated. Then, when the southern States found that there was going to be an earnest war, that freedom was raising her voice, and that our freedom-loving people would peril their lives, their fortunes, and their sacred honor to protect the government, that in the north and the south the feeling in favor of the old flag was such that they would have a bloody business before they could destroy this government, what did they attempt to do? Various plots were formed for the purpose of seeing how they could overturn and throw the government into confusion. At first it was proposed to kidnap the President and take him to the south. That they soon discovered, however, required too much machinery, and for many reasons was impracticable; that it was a great deal easier to have him shot dead, or stabbed, or poisoned! They therefore abandoned the project of kidnapping. Gentlemen, this whole subject has been fully considered. It was stated here that this conspiracy commenced in 1863. That is true. It did commence at that time. We at first thought of going into its early inception on the occasion of this trial, but we found that was not necessary, and would only encumber the case. The plan of abduction having been abandoned, a plan was then laid for the murder of the President, the Secretary of State, and the Vice President, and thus have the government thrown into confusion, when, in view of the hostility which existed between different parties at the north, they hoped to be able to march into the city of Washington, overturn it, set up their slave oligarchy and rule the people with a rod of iron, compelling the poor white, and the humbler citizen even who is not poor, to bow in subjection to their power. You would not so have it. The loyal people of Virginia would not so have it, nor those of Maryland, nor those of this District, nor those of the northern States, and they rose in their might and forbade it.

Now, what takes place? Mr. Lincoln had gone into power, and the government was succeeding, though with great difficulty, for there were great dissensions among us, as there always are in a great commotion, as there always are in a great civil strife such as that through which we have just passed, when brother is arrayed against brother, and father against son. Even here and in my own city we were hostile to the exercise of military power over the civil. We were hostile to numerous acts of this government, for many of us felt that the war was not carried on in the manner in which we desired to have it.

carried on, and it was believed by many of those in the south that when these passions were thus aroused and these parties thus arrayed, the one against the other, that, if Mr. Lincoln could be gotten out of the way, such confusion might be created in the north that the south would be able, in this state of anarchy, to successfully establish their separate and independent government, in which, if they had been successful, an absolute loss of liberty to every one of you would have been the result. You cannot have two great powers of a common origin, of a common language, and a common religion, where there is no natural boundary, and where only an imaginary line cuts off great rivers which empty into the sea, situated side by side, without having continual war; and from continual war liberty always shrinks away, and the military commander becomes supreme and absolute. Liberty always perishes under such circumstances.

In 1864, as early as the month of April, the plot was discovered by one of those providential occurrences which often happen in this world. Mrs. McClermont, while standing down on the avenue, waiting for a car to pass, saw three men talking together, and heard them speaking of the Soldiers' Home, where Mr. Lincoln was then staying, and to which place, in the afternoon, he used to ride out with his wife and little boy; heard them speaking about using a telescopic rifle, and heard one of them remark that his wife and little boy were generally along; heard another one say that they must put them out of the way, if necessary. Mrs. McClermont, the wife of one of your own citizens, born here, and who has lived here all her life, comes and tells you this. She tells you who the men were. She knew them. She knew Booth, she knew Herold, she knew Atzerodt; and those were the men. So early as that she overheard this conversation. You cannot say that she was lying about it, for she had no motive to lie. You must believe her, and I am sure you do believe her.

Who is this Herold that she met there at this time? You have heard some account given of him when he was arrested at the time Booth was killed. Booth called him a boy—an innocent boy—and said that he wanted to surrender. You will notice that Booth had a kind of romantic gallantry about him, which led him to always take the blame upon himself. Booth wanted to come out, and urged Colonel Conger to allow him the privilege of doing so, and of fighting his whole command. He remarked that Colonel Conger was a brave man, and ought not to deny him this privilege. He meant to sell his life at the most costly price. He intended to lay at his feet some one or two or three or more of the men before he surrendered. He wished to shield Herold, who was with him. He wished to take all the responsibility upon himself. He imagined himself a greater than Brutus; a curious, wild notion he had after the strange drama in which he had been such a bloody actor; and yet, strange to say, he thought all were against him, and even doubted whether God could forgive him. Indeed, I think he says he knew He could not. It is not strange that his mind had become unhinged; not strange that he had run to these wild extremes in his thoughts of dying for his country's cause. Let me again ask who was this Herold? He was a little clerk, humble and poor; employed in a drug-store of Mr. Thompson's. He went there in March, 1863, and staid there until he was discharged, as Mr. Thompson tells us, the following fourth of July. How happened this weak young man, with neither courage, physical strength, genius, nor power, to have been brought into this conspiracy? You can see why Payne was, why Atzerodt was, why Surratt was, but why this weak Herold was brought into it, it is not so easy at first sight to discover; but when a certain fact is mentioned it can very easily be accounted for. Mr. Lincoln got his medicine at the drug store of Mr. Thompson, where Herold was, and if Herold could be brought into this thing, could be made a party to the plot, there might be a chance to poison Lincoln, and thus he might have been gotten rid of without the great violence and risk which would attend the shooting of him. We shall show

you more of this in the evidence as we proceed and from Booth's own writings. That is why Herold was brought into this conspiracy; and, being in it, he had to be kept in it. After he was discharged from this store, he never was in any other employment, but kept with Booth from that time on. There is no evidence to show that he was in any other employment from the hour he was discharged from this drug store, where Mr. Lincoln got his medicines, until he was taken, put in irons, and finally disposed of by the military commission.

The court here took a recess for half an hour.

AFTERNOON SESSION.

On reassembling, Mr. PIERREPONT resumed, as follows :

Gentlemen : I now come to an act in this great drama which, though strange, is not new. So wonderful is it that it seems to us to come from beyond the veil which separates us from death. As I have already said, "all government is of God." The powers that be are ordained of God, and, for some wise purpose which we do not understand, the great Ruler of all, by presentiments, by portents, by bodings, and by dreams, sends some shadowy warning of the coming doom when some great disaster is to befall a nation. So was it in the days of Saul, and so was it when the great Julius Cæsar fell; so was it when Brutus died at Philippi; so was it when Christ was crucified, and the wife of Pontius Pilate sent to her husband, "Have thou nothing to do with this just man, for I have suffered many things this day in a dream because of him;" so was it when the great Henry IV of France was assassinated; so was it with Harold, at the battle of Hastings; so was it on the bloody day of Bosworth field; so was it when the Russian Czar was assassinated; so was it and so has it ever been when men in high governmental places have been stricken down by the assassin's hand; so was it before the death of Abraham Lincoln, the President of the United States. In the books which I hold in my hand—in this *Life of Cæsar*, by De Quincey; in this *Life of Pompey*, by Plutarch; and in this presentation which is given in *Julius Cæsar* by the great dramatist, Shakspeare, are related the portents which came to warn Pompey when he left the ship and landed on the coast of Egypt; and the warning given to Julius Cæsar, not only in the dream of Calpurnia, his wife, but in his own dream on that bloody day when he was assassinated in the Senate. The same was true when the Prince of Orange was assassinated; and equally true is this great historic fact, that never in the whole history of the world with which we are familiar has there been a single instance of the assassination of the head of a government in which the assassins have not all been brought to justice. It is a terrible thing to fight against God. Government being of God, any attempt to throw a people into confusion and anarchy is fighting against God, and in no instance has he ever suffered a man guilty of such a crime to go unpunished. Though the criminal may take unto himself the wings of the morning and flee to the uttermost parts of the earth, yet the eye of God will follow him and the hand of justice will eventually be laid on him, and compel him to give a rendition of his bloody account.

On the 13th of April, 1865, Abraham Lincoln called together his cabinet. He was in good spirits, for, as you well remember, we had at that time been receiving the most gratifying and cheering news; but still upon his soul there lay a heavy gloom, and he remarked, "I am very anxious to hear from Sherman." The reply was, "You will hear good news from Sherman. There can't be any doubt about that." General Grant was there, and he knew Sherman. He took occasion to assure the President that the news from Sherman would be all right. "I don't know," replied Mr. Lincoln, and then repeated what he had before said, "I am very anxious to hear from Sherman," adding the remark, "I feel some great disaster is coming upon us. Last night I was visited by a

strange dream, the same dream that in the darkness of the night, when deep sleep had fallen on men, hath three times before visited me. Before the battle of Bull Run, before the battle of Stone river, before the battle of Chancellorsville, it came to me, and the following day came the news of the disaster. This same dream came to me last night in my sleep, and I feel as if some great calamity is to befall the nation, in which I am to be personally affected." The members of the cabinet who heard that will never forget it. In a few hours afterwards (a pause) he did not hear from Sherman, but the DREAM came again and led his spirit up to God who gave it.

In this connection there is a little incident that appears no less strange. I hold in my hand two letters—those found by Mrs. Benson in the railroad car. One is written in a delicate female hand. You have seen them before, but I want you to see them again. You will not easily forget them; and after you have heard all the history that there is connected with them you will tell it to your children. You have no doubt that was written by a woman, have you? (Handing the jury letter, said to be written by the wife of Payne.) It has all of a woman in it. I want you to notice the indorsement on the envelope; it will become historic. These papers will never pass out of the possession of the government, except by theft.

The words are "Assassination—General Dix." There is a remarkable history connected with this letter. Let us trace it. Mrs. Benson, it seems, was in the city of New York, riding in a railroad car with her little girl, in 1864, just after the re-election of Mr. Lincoln. What occurred to make this fact of any consequence? Let us see. From Canada she comes upon that stand and tells you her simple story. I want to give it to you in her own words:

Q. What time in November was it—the first or last part? A. It was about the 14th, I think.

When we turn here to the record of the hotel, we find Booth was there in New York on that day, and did not return here until the 15th. This is only, gentlemen, in confirmation of what I said the other day, that every truth is in perfect harmony with every other truth; and here let me say that I pledge you my honor and my hope of eternal salvation to show you that there is not a word of this evidence which the government have relied upon that is not in perfect harmony with every other word, as you will see as we proceed; for I repeat, every truth is in perfect harmony with every other truth. What does she say in her testimony? I will continue the reading:

Q. What is it that enables you to recollect the month? A. The circumstance of picking up the letters in regard to the assassination.

Q. Do you recollect of General Scott and General Butler being in the city at that time? A. General Butler had been in the city, but he had left on the morning of the day I found the letters.

Q. Was General Scott there on that day? A. Yes, sir; he was at the Hoffman House; he resided there.

Q. Do you remember, madam, during that visit in November, riding on the Third avenue cars? A. I do.

Q. Who was in company with you at that time? A. My little girl, my daughter, was with me.

Q. How old was she? A. She was nine years of age at that time.

Q. Was any one else in company with you and your daughter at that time? A. There was not.

Q. I will ask you if you saw anything on the cars at that time, or heard anything, that attracted your attention; and if so, state what it was. A. There were two gentlemen in the car, sitting next to me. One of these was an educated man, the other was not. I overheard their conversation at different times, when the car would stop.

Q. State, if you please, the appearance of these parties. A. One of them was a very fine, gentlemanly-looking man.

Q. Did you observe his hand? A. Yes, sir.

Q. Did that attract your attention? A. Yes, sir; he had the hand of a man who was never obliged to do any work; had a smooth, white hand. It was quite a small hand.

Q. Did you observe anything about his face that attracted your attention? A. My seeing

that he was disguised was what first attracted my attention. In the jarring of the car his head was struck, which had the effect to push forward his hat. He seemed to have a wig and false whiskers on, and these were pushed forward at the same time, showing the skin underneath the whiskers to be fairer than the front part of his face, which seemed to be stained with something. The front part of his face was darker than that under the whiskers.

Q. State if there was anything peculiar about either of them on the face. A. There was a scar on the right cheek of the gentleman-looking man, just underneath where the whiskers were. When the whiskers were pushed forward I could see the scar; that was on the side next to me.

Q. Can you give us a description of the other one? A. The other person was a large man, a common-looking man. He was a shorter and a stouter man than this one. The one who had the scar on the face called him by the name of Johnson.

Q. Will you state if both, or either of them, were armed in any way; and if so, what arms they had? A. The well-dressed gentleman, the one who sat next to me, put his hand back to get letters out of his pocket, and I saw that he had a pistol in his belt.

Q. Did you get a close observation of the pistol? A. No, sir; I did not. I only saw it was a pistol.

Q. Will you state if you heard them say anything at that time to each other; and if so, what? A. I heard the gentleman with the scar say he would leave for Washington day after to-morrow. The other one said he was going to Newburg, or Newbern, that night.

Q. Was anything else said that night? A. The man named Johnson was very angry because it had not fallen upon him to do something that he had been sent as a messenger to direct this other man to do.

Q. Why did he say he was angry? A. He seemed to be angry. He said he wished it had fallen upon him instead of on this other man to whom he had brought the message to go to Washington.

Q. Who left the cars first, you or this party? A. They both left before I did.

Q. Immediately upon their leaving the car, did anything happen, or was your attention directed to anything? A. I saw them exchanging letters in the cars. I had letters of my own to post, and was then on my way to the post office. As I was leaving the car my little girl picked up a letter at the edge of my dress and gave it to me, with the remark that I had lost one of my letters.

Q. You saw her pick it up? A. Yes, sir. It was just under the edge of my dress.

Q. What did you do when this letter was handed you? A. I took it without noticing that it was not one of my own, and put it in the pocket of my coat with my other letters, and kept it there until I got to the broker's, where I was going with some gold, near Nassau street. In putting my hand into my pocket to get some money, I took out the letters that I had in there. I instantly saw these letters in a blank envelope, and knew they were not mine. Being in an unsealed envelope, I opened them to see what they were, and found that they related to this plot.

Q. What did you then do with them? A. I saw General Butler's name was mentioned in the letter, and knowing very few persons in New York, having been there but a short time, the first thought that I had was to give them to him. As his name was mentioned in the letter, I thought that he would pay more attention to them than any one else. I had seen by the newspapers that he was in the city at the time. I went up to the Hoffman House, where he had been stopping, and inquired for him.

Q. Did you find him there? A. No, sir; he had left that morning. I then asked for General Scott. He was not well, but said he would see me. I said I wanted to see him with regard to something of importance. When I entered the room I told him of what I had found, and the circumstances connected with the finding. He asked me to read the letters to him. I did so, and he thought they were of great importance. It was nearly dark at the time.

Now let us see what these letters are. I have shown you this little letter written in the delicate hand of the wife to Louis, her husband. When General Scott and General Dix saw this letter from this loving woman they knew that there was no sham about it. None of you can read that letter without having your heart touched, although it was written by the young wife of Payne, the assassin. I will now read the letters:

DEAR LOUIS: The time has at last come that we have all wished for, and upon you every thing depends. As it was decided before you left, we were to cast lots, [as was done in regard to the betrayal and crucifixion of Christ.] Accordingly we did so, and you are to be the Charlotte Corday of the nineteenth century. When you remember the fearful, solemn vow that was taken by us, you will feel there is no drawback. *Abe must die, and now.* [You will remember that he had just been re-elected a few days before, and the hope that some of the rebels entertained of benefit to their cause by the election of McClellan was therefore gone.] You can choose your weapons—the cup, the *knife*, the *bullet*. The cup failed us once, and might again. Johnson, who will give you this, has been like an enraged demon

since the meeting, because it has not fallen upon him to rid the world of the monster. You will remember that Mrs. Benson heard him call the man he was talking with as Johnson. He says the blood of his gray-haired father and his noble brother call upon him for revenge, and revenge he will have; if he cannot wreak it upon the fountain-head, he will upon some of the bloodthirsty generals. Butler would suit him. As our plans were all concocted and well arranged, we separated; and as I am writing—on my way to Detroit—I will only say that all rests upon you. You know where to find your friends. Your disguises are so perfect and complete that, without *one* knew *your face*, no police telegraphic despatch would catch you. The English gentleman, *Harcourt*, must not act hastily. Remember he has *ten days*. Strike for your home, strike for your country; bide your time, but strike sure. Get introduced, congratulate him, listen to his stories—not many more will the brute tell to earthly friends. Do anything but fail, and meet us at the appointed place within the fortnight. Enclose this note, together with one of poor Leenea. I will give the reason for this when we meet. Return by Johnson. I wish I could go to you, but duty calls me to the West. You will probably hear from me in Washington. Sanders is doing us no good in Canada. [You remember drunken Sanders was not supposed to be doing the rebel cause much benefit in Canada, and Booth was right when he said so.]

Believe me, your brother in love,

CHARLES SELBY.

ST. LOUIS, October 21, 1864.

DEAREST HUSBAND: Why do you not come home? You left me for ten days only, and you now have been from home more than two weeks. In that long time only sent me one short note—a few cold words, and a check for money, which I did not require. What has come over you? [The poor woman didn't know he was in a plot to commit a murder.] Have you forgotten your wife and child? Baby calls for papa till my heart aches. *We are so lonely* without you. [Do you think a woman, a real woman, wrote that, or do you not?] I have written to you again and again, and, as a last resource, yesterday wrote to Charlie, begging him to see you, and tell you to come home. I am so ill—not able to leave my room; if I was, I would go to you wherever you were, if in *this world*. Mamma says I must not write any more, as I am too weak. Louis, darling, do not stay away any longer from your heart-broken wife.

LEENEA.

This first letter was sent by Booth to Payne to allure him from his poor heart-broken wife; and the other was from that distressed, loving wife, urging him to return to her and their child.

You will now begin to see, gentlemen, what is meant by a change of plan. They changed their plans several times. At one time the plan was for Louis Payne to kill Lincoln. At another time it was to have him poisoned by Herold. At another time to have him killed by an Englishman, as I will presently show you from the evidence; and lastly, it was arranged that Booth should perform the bloody part.

There is truth in those letters, gentlemen; and so thought those distinguished and gallant officers, General Scott and General Dix, when they were placed in their hands. General Dix forwarded the letters to Washington, and they were finally placed in the hands of President Lincoln. Gentlemen, there is a history about these letters that will never perish. I have shown you Mr. Lincoln's indorsement on the back. Mr. Lincoln had received a great many threatening letters, as had most of the officers of the government, but had paid no regard to them, considering them as mere threats and nothing more. When this letter of Booth's was given to him he went over to the War Department, and into the private office of the Secretary of War.

After the door had been locked, this letter was shown to the Secretary of War, and it made a deep and lasting impression upon that officer. It was taken back by Mr. Lincoln. After the President had been shot, and the Secretary was standing by his dying-bed, the remembrance of this letter flashed across his mind, and it immediately occurred to him that perhaps it might have some connection with the murder. He went forthwith to the Presidential mansion to see if he could get the letter. He found it in a private drawer of Mr. Lincoln's, in this envelope, and with this indorsement in his own handwriting: "Assassination."

Mr. MERRICK. Is there any evidence of those impressions, Judge?

Mr. PIERREPONT. I admit the impressions are not proof. I am only giving them as a part of the history of this strange transaction. It is a history that should not be allowed to perish. It is a history that belongs to the country; belongs to you, gentlemen, and to that strange letter and that indorsement by this murdered statesman.

Mr. MERRICK. Make a note of that, Mr. Bradley, for you have a right to reply to it.

Mr. PIERREPONT. I now refer you, gentlemen, to page 450 of the record.

In regard to the subject of Booth's whereabouts, Mr. Bunker says, in reply to the questions:

Q. I wish to refer to the memorandum merely to refresh your memory, and state when Booth was at your hotel during the latter part of 1864 up to the time of his death. A. November 9, 1864, J. Wilkes Booth arrived at the National Hotel, and occupied room 20. He left by the early train on the morning of November 11.

Q. You know, in some way, that fact? A. Yes, sir; by a book we kept at the hotel, called the departure book. He returned again November 15th, and left on the 16th.

He was then in New York, at the very time when Mrs. Benson says this letter, which I have read to you, dropped from his pocket.

Now you see, gentlemen, what is meant by a change of plan. In the spring of 1864 the plan was to murder Mr. Lincoln. They laid various plans for its accomplishment. They thought to do it as he went to the Soldiers' Home, by the telescopic rifle, and they did not intend, in the event of concluding to carry out that plan, to let his wife and his child stand in their way. They then thought to do it by having Payne to call upon Mr. Lincoln, get into conversation with him, listen to his stories, seem to be interested in them, and then, at that moment, to strike the knife home, deep into his heart. They at another time thought to poison him, and for that purpose tried the cup; but it seemed that that failed them once, and, as Booth said, might fail them again. They finally concluded they would try to kill him in the theatre, instead of on his way to the Soldiers' Home, and have Payne kill Secretary Seward at his house. That plan they carried out.

But, gentlemen, notwithstanding this change of plan, never was there for more than a year any other purpose than to murder. They had long since abandoned the idea of kidnapping, for that required too much machinery, too many men, and subjected them to too much danger; and the changes in the plan that had taken place recently were simply as to the mode of killing and the men who should strike the fatal blow.

I turn now to the testimony of Charles Dawson, at page 338. There was found, after the death of Booth, in the hotel where he boarded, this letter addressed to him. Here it is: "J. W. B., National Hotel, Washington, D. C." Let us see whether this letter throws any light on this terrible tragedy. You will notice it is dated April 6; the murder was April 14:

SOUTH BRANCH BRIDGE, April 6, 1865.

FRIEND WILKES: I received yours of March 12, and reply as soon as practicable. I saw French and Brady and others about the oil speculation. [Here comes in the oil speculation, just before the murder.] The subscription to the *stock* amounts to eight thousand dollars, and I add one thousand myself, which is about all I can stand; now, when you *sink* your well, go deep enough; don't fail; everything depends upon you and your *helpers*; [who were his helpers in sinking his well? Have we not one of those helpers on trial?] If you can't get through on your *trip*, after you *strike* ile, strike through Thornton Gap and across by Capon, Romney's, and down the branch, and I can keep you safe from all hardships for a year. [Why did he want to run after he had struck "ile?" I should think—should not you?—that he would want to keep still, gather the oil and put it in a cask, to use it.] I am clear of all surveillance now that infernal Purdy is beat. I hired that girl to charge him with an outrage, and reported him to old Kelly, which sent him in the *shade*, but he suspects too damn much now; had he better be *silenced for good*? I send this up by Tom, and if he

don't get drunk you will get it the ninth. At all events, it can't be understood if lost. I can't half write; have been drunk for two days. Don't write so much highfalutin next time. No more; only Jake will be at Green's with the funds. Burn this.

Sue Guthrie sends much love.

Truly yours,

LOU.

What kind of men are you dealing with? Notwithstanding all this, the prisoner is innocent, free from crime, say the counsel, and an effort is made to arouse your sympathies in his behalf. You are asked: "Have not we had blood enough, and shall not this great and generous government of twenty-five millions of people let this man go who has been engaged in this crime?"

"At all events, it can't be understood if lost."

I think we are understanding something about it. Is there a man sitting here that does not understand it? Have you any doubt about what this letter means? Booth writes in a tragic strain, as you see. In one of his former letters you remember he said: "We have tried the cup, the knife, and the bullet. The cup has failed. Now, strike! strike deep! strike for your country! Remember that brother's oath, and strike home!"

Booth speaks in this letter of "Jake" being up at Green's with funds. "Jake" was up in Canada with a great many funds before and afterward. "Jake" had funds, and Surratt took \$70,000 and \$30,000 of the funds to "Jake." "Jake" had funds, and these men, who are poor and idle, entered into this horrid crime expecting a reward from him. If they had succeeded, perhaps "Jake" would have divided with them. I do not know how that is, however, but he nevertheless had funds.

The writer says "Burn this." Why did he want to have it burned? He had already said that it could not be understood if lost. But it was neither burnt nor lost. It went to its destination, and here comes up as a telling witness against this terrible crime. It lives and cannot be blotted out. You cannot ignore it and do not want to.

I come next to the evidence of Mr. Chester, at page 444. Mr. Chester says (speaking of Booth) that the last time he saw him was on Friday, a week previous to the assassination. I will read:

Q. When and where did you last see him? A. The last time I saw him was on Friday, one week previous to the assassination. I was with him nearly the entire afternoon. We separated at the corner of Fourteenth and Broadway, in New York city.

I wanted to show you that Booth was in New York city at that time—the Friday—exactly a week before the assassination. This witness proves that fact. I now come down to what occurred at Mrs. Surratt's house after the murder on the night of the 14th. I read from page 514:

Q. Did anything occur in regard to your health that night requiring you to get up? A. The next morning about 2 o'clock I had been to the yard, had gotten to my room again, gone to bed, and was just about falling to sleep when I heard the door bell ring very violently. It rang several times in very quick succession. There were only two gentlemen in the house at that time, to my knowledge, Mr. Holohan and myself. I drew on my pants, and, with my night-shirt open in front, barefoot, I went down to the front door. I rapped on the inside of the front door and inquired who was there. "Government officers," was the reply, "come to search the house for J. Wilkes Booth and John H. Surratt."

Q. What did you say? A. I told them that neither of them were at home.

Q. What occurred further? A. "Let us in anyhow," said they; "we want to search the house."

By the COURT. Q. Was this on the morning of Saturday? A. Yes, sir; about two or half past two on the morning of April 15. I then told them it would first be necessary for me to ask Mrs. Surratt's permission. In order to do so, I went to her bedroom door, which was immediately in the rear of the parlor, and rapped, saying, "Mrs. Surratt, here are government officers who wish to search the house." "For God's sake let them come in," said she; "I expected the house would be searched."

Why did she? Why, a few hours before, she had been with Lloyd, and told him that the whiskey bottles and the shooting-irons must be got in readiness, that they would be called for soon. And you will remember that but a short

time before her own son had taken tea for the last time with her alone and left, as I shall show, on his awful mission. "I expected the house would be searched," she blurted out. On the trial of Dr. Webster, as you will remember from your reading of the case, it appeared that he had cut off the head and the greater portion of the body of Dr. Parkman, and had destroyed such parts. When a portion of the body was found, and they went to him and told him of its discovery, what was his first inquiry? He asked, "Has it *all* been found?" Why did he say *all*? Would anybody else have said *all*? No; but he had cut it up, and he knew that the larger part had been destroyed, and unconsciously he thus gave expression to his first thought, "Has it *all* been found?" How similar the case of Mrs. Surratt in this expression: "I expected the house would be searched." Guilty persons always make disclosures in this way.

The witness continues:

A. I returned to my room; the detectives also came to my room.

Q. Did you dress yourself that morning? A. Not just then; the detectives commenced to search my room; they looked in the closet, looked under the bed, and looked all around. I asked them for God's sake to tell me what is the matter; what this means; what means searching the house so early in the morning. One of them looked at me and said: "Do you pretend to tell me you do not know what happened last night?" I said I did; I did not know what had happened.

Q. State what was the manner of these officers in making this inquiry. A. They appeared to be astonished that I had not known what had transpired. Then Mr. Clarvoo said, "I will tell you," and he pulled out a piece of a cravat; there was blood on it. Said he, "Do you see that blood? That is Abraham Lincoln's blood; John Wilkes Booth has murdered Abraham Lincoln, and John Surratt has assassinated the Secretary of State."

They supposed then that John Surratt was the one who had attempted to assassinate the Secretary of State. Nobody then doubted John Surratt was in the city that night. The counsel for the prisoner has said, "If John Surratt was here, why did not his friends come and tell of it? Why didn't we put them on the stand?" Why, gentlemen, we did not suppose that his sympathizing friends, who wanted to shield him, would come and tell of his presence here. If they had, they would have received the same amount of abuse that Dr. McMillan and St. Marie have received for telling what the prisoner confessed to them. We did not expect his friends to tell of it. There were plenty of them, however, who knew that he was here, for everybody understood the fact at that time.

I then went down stairs with Mr. Clarvoo and Mr. McDevitt. Mrs. Surratt just then came out of her bedroom. I said, "What do you think, Mrs. Surratt?—Abraham Lincoln has been murdered." I did not say Abraham Lincoln; I said, "President Lincoln has been murdered by John Wilkes Booth, and the Secretary of State has been assassinated." I did not bring her own son's name out, from respect to her feelings. She raised her hands and exclaimed, "My God, Mr. Weichmann, you don't tell me so." She seemed astonished at the news. At this time Miss Surratt and Miss Jenkins were not down stairs.

Q. What did Mrs. Surratt then say? A. The talk was about the murder; every one in the room had been told that Booth had done it; Anna Surratt commenced to weep and said, "Oh! ma, all this will bring suspicion on our house; just think of that man (we were speaking about Booth at the time) having been here an hour before the murder." "Anna, come what will," she replied, "I think John Wilkes Booth was only an instrument in the hands of the Almighty to punish this proud and licentious people."

If you remember, Booth's diary says the same thing. He says he thinks he was an instrument in the hands of the Almighty. That seemed to be the theory, that they were instruments in the hands of God. They had wrought themselves up to such a pitch of madness that they finally made themselves believe that they were divinely appointed agents in this horrible murder.

I turn you now to the testimony of Colonel Smith, who searched this house. You will see it is very important. His testimony will be found on page 442:

A. Before ringing the bell I leaned over and looked through the blinds into the parlor, and discovered four females sitting close together, evidently in close conversation. From what occurred I should judge they were anxiously expecting some one. They were turning and listening from time to time, as if waiting for somebody to come. I then rang the bell; somebody came to the window and whispered, "Is that you, Kirby?"

Q. Tell how. A. They whispered, in a low voice, "Is that you, Kirby?" I said "No, it

is not Kirby, but it is all right; let me in." She said, "All right," and opened the door. I stepped in and said, "Is this Mrs. Surratt's house?" She said, "Yes." I said, "Are you Mrs. Surratt?" She said, "I am the widow of John H. Surratt." I said, "And the mother of John H. Surratt, jr.?" She said, "Yes." I then said, "Madam, I have come to arrest you and all in your house, and take you down to General Augur's headquarters for examination. Be kind enough to step in." She stepped into the parlor. There were three parties there; one was lying on the sofa. Said I, "Who are these ladies?" She said, "This is Anna Surratt, that is Olivia Jenkins, and that Honora Fitzpatrick." I said, "Ladies, you will have to get ready as soon as possible and go with me down to General Augur's for examination." Whereupon Miss Surratt commenced wringing her hands, and said, "Oh, mother, think of being taken down there for such a crime!" Mrs. Surratt stepped to her, put her arms around her neck, and whispered something in her ear, and she became quiet. I said to her that I had sent for a carriage, and to please to get ready as soon as possible; that I would send somebody with them down to headquarters.

By the COURT:

Q. What time was that? A. As nearly as I can state, a quarter after 10. Mrs. Surratt said, "I will go up stairs and get the ladies' things." I said, "I advise you to get warm wrappings, as it is a damp, drizzly night." She said, "I will go right up stairs." I said, "Excuse me, madam, this house is suspected; I will accompany you up stairs." I told Clarvoe to remain in the room and see that no papers were destroyed, and that no communication passed between the ladies. I went up stairs with Mrs. Surratt. She obtained clothing for the ladies to go to headquarters. In the mean time two other detectives had reported, one by the name of Morgan and another by the name of Samson. I sent Samson down stairs to take charge of the servants, and waited for the carriage. Mrs. Surratt said to me, "By your leave, sir, I would like to kneel down and say my prayers, to ask the blessing of God upon me, as I do upon all my actions." I told her certainly; I never interfered with any such purpose. She knelt down in the parlor and prayed. In the mean time I heard steps coming up the front steps. Wermerskirch and Morgan were in the upper part of the house with me. I told them to go behind the door, and that when they rung or knocked to open the door and let them step in, whoever it was, and I would meet them in the hall, thinking at the time it was Kirby that I was going to trap. I stepped into the parlor, and the door-bell rung. The door opened. I stepped out into the hall and found myself face to face with Payne. Payne was standing on the threshold of the door with a pickaxe over his shoulder. I stepped out and met him. He said, "I guess I have mistaken the house." I said, "You have not." He said, "Is this Mrs. Surratt's house?" I said, "Yes." He seemed to hesitate. I drew my revolver and cocked it, and said, "Step in." He stepped in immediately. I said, "Lay down that pickaxe." He laid it down, or put it in the corner. I took him to the back part of the hall and set two men to stand guard over him. We then commenced questioning him and examining him. I asked him where he had been. He said he had been working on the railroad and canal; that he had been working in different parts of the city. I asked him how long he had been here. He said a week or ten days. I asked him if he had any papers with him. He said he had a pass, which he took out and handed to one of the officers, who passed it to me. I looked at it and found it to be an oath of amnesty, or an oath in which he bound himself not to go south of the Potomac, I think.

Mr. BRADLEY. Where is that paper?

WITNESS. I do not know.

Mr. BRADLEY. You need not say anything more about the paper.

WITNESS. I then told him he was so suspicious a personage that I felt bound to arrest him and send him down to General Augur's headquarters. I sent for a carriage immediately. I left him in charge of two men, and went down stairs to search the premises. I saw the servants there, and from them I learned—

Mr. BRADLEY. You need not state what you learned from the servants.

Mr. PIERREPONT. What was said by the servants or anybody else in presence of Payne or Mrs. Surratt is evidence.

WITNESS. There was nothing said by the servants in presence of any one except the detective and myself. I asked Payne what he had been doing. He said he was a laboring man. I asked him where he lived. He said he could not tell. I asked him whether it was east, west, north, or south. He said he could not tell me where he lived. I asked him what he came to Mrs. Surratt's for at that hour of the night. It was then verging toward 11 o'clock. He said he came to get instructions about digging a ditch in the back yard. I asked him what he came at that hour for to get instructions about digging a ditch. He said he didn't know; he was passing along. I asked him when he met Mrs. Surratt. He said he met her this morning, and agreed to dig a ditch for her, and that he wanted instructions to go to work the next morning. I then stepped to the parlor door and said, "Mrs. Surratt, will you be kind enough to step here a minute?" Said I, "Do you know this man? Did you hire him to dig a ditch for you?" She raised both her hands and said, "Before God, I do not know this man; I have never seen him; I did not hire him to dig a ditch." Shortly after that a carriage reported, and Mrs. Surratt and the three ladies were sent to General Augur's headquarters. A little while after Payne was also sent there in another carriage. Both carriages went in charge of detectives.

"Yea, all that a man hath will he give for his life."

Q. Who did you find in the house? A. We found Mrs. Surratt, Miss Surratt, Miss Fitzpatrick, Miss Jenkins, a little colored girl asleep on the floor in the back room. We found Susan Ann Jackson, or a colored woman who said her name was Susan, a man down stairs, who she said was her husband.

Q. Would you know this Susan if you were to see her? A. I think I would.

Q. Was she a full grown person? A. Yes, sir.

Q. Did you talk with this man? A. I did, a few minutes.

Q. Did you ask Susan any questions? A. Yes, sir; I asked her a number of questions.

Q. Did you ask her anything about John Surratt?

Now, gentlemen, I have to stop here a moment for the purpose of comment. The learned counsel, in the most vehement tones, the other day, said: "If Susan Ann Jackson had told any of these officers, why did not the prosecution bring it out?" Did not counsel know that we did try to bring it out, and that they stopped us? If they do not, I will show it to them here from the record. They saw, and you saw, gentlemen, how desirous I was to get this fact out, that she had made this statement to Colonel Smith, and that he had in writing reported it to the War Department, and that he had it placed on file that very night. Let us see what they did:

Q. Did you ask her anything about John Surratt?

Question objected to by Mr. Bradley.

Mr. Pierrepont said he had the right to ask whether the witness had held any conversation; he had not asked what that conversation was.

The court decided the question could be put in that shape.

Q. Did you question her? A. I did.

Q. Did you question all the others? A. I questioned them all.

Q. Did you make a written report of your examination at that house at the time?

Question objected to by Mr. Bradley as immaterial.

Objection sustained.

Q. Have you a distinct memory of what occurred at the time? A. I have.

Question objected to by Mr. Bradley as improper on examination-in-chief.

The court said it was proper to ask a man whether his memory is distinct about what he says.

WITNESS. My memory is distinct, even to the very words.

That is the reason we did not get it out. We wanted to get it out, as you see here. The counsel, of course, must have forgotten all this, or they would not have said that we ought to have brought this fact out. There is some advantage in having a printed book of evidence in a protracted case like the one we are trying, for it tends to refresh our memories. In a case running through two months like this one, if counsel should forget any of the testimony that might have been given, it is very excusable. For fear I might forget some of it, I early made the determination that I would state no evidence to you, nor comment on any, except such as I had read from the book, giving it word for word as it fell from the lips of the witness.

Mr. MERRICK. I did not forget. My remark was addressed to the written examination before Colonel Olcott, which you never did offer in evidence.

Mr. PIERREPONT. And for the simple reason that there never was any taken. I tried very earnestly a second time to bring this evidence out, as you will see, but I did not succeed. The law did not permit it, and therefore the court ruled against me. And the court ruled right. If counsel, however, had not objected, it could have come in. My learned friend says that he did not forget, but that he was alluding to another matter. I shall take up that other matter when I come to Susan Ann Jackson's testimony.

Now let us see whether this statement of Colonel Smith's is confirmed or not. I turn to the testimony of Captain Wermerskirch, page 606:

Q. State what he said when he came to the house. A. When he came to the house he was asked to come in, because he refused to come in after he saw strangers present. After he came in he was asked what he wanted; he said he wanted to see Mrs. Surratt; he first inquired if that was Mrs. Surratt's house; he was then confronted with Mrs. Surratt, and she was asked whether she knew the man; she held up her hands and said she did not know the man, and called God to witness: "Before God I do not know this man."

I have said that the Bible states, "Yea, all that a man hath will he give for his life." She had been at prayer and had just risen from her knees when she was called out into the hall. She then, in the presence of these men, lifted up her hands before her God and exclaimed, "I do not know this man." Human nature is indeed weak in such troubles. Appreciating this fact, I pass this matter by without further comment. Let us throw the veil of charity over it as far as we can.

I now turn to page 607 :

WITNESS. Major Smith told Mrs. Surratt and the other ladies—there were three of them—that he arrested them; that they were his prisoners; that they had to come up with him to the Provost Marshal General's office. Thereupon Mrs. Surratt requested him to allow her to go up and get their cloaks and bonnets to put on. Major Smith told her she might go up there, and accompanied her himself. Miss Annie Surratt had been weeping a great deal and was quieted by Mrs. Surratt; what she said to her daughter I do not know, because she said it in a very low tone—whispered it to her. She then asked Major Smith's permission to kneel down and pray, and she thereupon knelt down. Shortly thereafter they left. We had sent for a carriage in the mean time, and the carriage had got there and they were sent up to headquarters.

Q. After praying in the manner you have described, where did Mrs. Surratt go? A. After prayer she came out in the hall; she went through the hall and entered a carriage.

Q. Did she then see Payne? A. It was at that time she saw Payne.

Q. Then the remark to which you have already testified of Mrs. Surratt, her denial that she knew Payne, was made after this? A. After this; yes, sir.

Now I come to the testimony of Colonel Morgan, at page 460, who was likewise there :

Q. Will you please state what occurred in the presence of Payne? A. I directed that Mrs. Surratt and all the others in the house should be sent up to the provost marshal's office. They hesitated about going. I told them they should not delay, but go right away. I told Mrs. Surratt to go up stairs and get the bonnets and shawls of the rest of the party. She did so, I sending an officer along with her. She got all the things and brought them down in the parlor, where they prepared themselves to leave. When they were about ready to go, she said something about it being a cold, damp night. I said I would send for a carriage, and immediately directed one of my men to go and get one. About three minutes before he returned there was a knock and a ring at the door. I was at the time standing by the parlor door. I instantly stepped forward and opened the door, thinking it was the man returning with the carriage. Instead, however, of it being him, a man entered dressed as a laboring man, with a pickaxe over his shoulder. As soon as he saw me he stepped back and said, "O, I am mistaken." Said I, "Who do you wish to see?" He said, "Mrs. Surratt." I replied, "It is all right; come in." I passed him in, and put him behind the door, standing myself with my hand on the door, open. I said to Mrs. Surratt, "Are you ready?" and then remarked either to Major Smith or one of the clerks standing there, (I cannot now say which,) "Pass them out." As they were about starting, I looked around, and saw Mrs. Surratt just getting up from her knees and crossing herself. I said, "Hurry up and get along; the carriage is waiting." I sent a man off with them to the provost marshal's office. After I passed them out I commenced to question Payne.

Q. Passed who out? A. Mrs. Surratt and the other three ladies.

Q. Before you passed Mrs. Surratt out what was said to her about Payne, if anything? A. After she got up from her knees, Major Smith made some inquiry as to whether she recognized him. I did not hear exactly what he did say, nor the reply she made.

Q. What did she say to you? A. She leaned her head over toward me, and said, "I am so glad you officers came here to-night, for this man came here with a pickaxe to kill us."

Then he says further at page 470 :

Q. Where was Payne in reference to you when Mrs. Surratt went out? A. Payne was close up to me.

Q. Did Payne make any reply when Mrs. Surratt leaned a little back in the manner you have described, and said to you, "I am glad you officers came here to-night, as that man with a pickaxe came to kill us?" A. No, sir.

Now, gentlemen, a great many things have been going on in this brief time over which I have passed. Where was John Surratt all this time? I do not need to tell you that no man can be in two places at the same time. That you will all admit is not within the range of possibility. He was somewhere—where was he? That is the question. These two points in this case are fixed; about them there is no dispute—that he left Montreal on the 12th, and returned to

Montreal on the 18th. Between those two dates all these things of which we have spoken relating to this murder were done. Where was John Surratt all this while? Was he in Canada? *They* could very easily tell you where he was every hour from the 18th till he left on the steamer to go to Europe, could they not? He was at Porterfield's, at Boucher's, and at La Pierre's, and they could tell you where he was between the 12th and 18th—only six little days. Where then, I again ask, was their client, the prisoner, during this time? He slept somewhere, did he not? He ate somewhere; he saw somebody; he staid at some house. He was in some wood, some field, some village, some city, somewhere. They know where he was and could give us the information if they would. Why cannot they bring us the man in whose house he slept, the servant who made his bed, who brought him his water, the barber who shaved him, the person of whom he bought an apple, a meal of victuals, or a ticket, or something? Why did they throw a thick veil of night over these six awful days? What is the reason, gentlemen? He knows where he was, doesn't he? He knows every step he took. He knows every hotel in which he slept. He knows every place where he got food or drink, and yet he does not tell you one of them, as I will presently prove to you. The books of law which I have read to you say that when an *alibi* is attempted, after the government have shown the party present where the crime was committed, the prisoner must prove beyond any possibility of doubt that he was somewhere else. That is the law. My friends on the other side have admitted that, and said they found no fault with it. It is, then, for them to show where he was, if they know; and if they do not know, it is because they have not tried to get the information, for their client knows.

Now, let us see if we can find out where he was, as long as they will not tell us. I am sure I know where he was at this time, and I am just as sure that you will know where he was when I get through reading this evidence, if you do not already. I want to call your attention to this remarkable circumstance that occurred in the taking of this evidence. I do not know whether it arrested your attention at the time or not, but you will remember it when I recall it to your minds. For some reason, which I did not then understand, but which was fully revealed in the progress of the case, Mr. Du Barry was put by the defence upon the stand, and brought his records of the railroad between Elmira and Baltimore. I afterward put him on the stand, as you will recollect; but I will recur to that presently. Why was he called by the defence? Why, to show that between Elmira and Washington, in consequence of the freshets that had been sweeping away all the bridges, railroad connections, &c., there was no railroad communication by means of which Surratt could have come from Elmira on the 13th and reached the city of Washington on the 14th. After Mr. Du Barry had testified, you remember the senior counsel, in the argument which he made to the court, said, not only once, but repeatedly:

"We have shown it was a physical impossibility that he could have come from Elmira on the 13th and reach here in the forenoon of the 14th." Well, he said it with confidence—perhaps with effect. It would be effective if it were true; we knew it was not true; we thought we could prove it was not true, and we undertook to prove that it was not true, but found ourselves in great trouble. Although we got the original books from the very engineer who drove the trains, yet when the man who was brought here to prove them was cross-examined, it turned out that he did not make, himself, the original entries, and the court ruled the evidence out. Then we tried to get the men themselves. They would not come, and in your presence and before the court we made the proof of that fact and sent out a process of attachment to arrest those men and bring them here. I made a remark on that occasion, which was printed in this case, that every impediment had been thrown by that road in the way of our getting at the facts connected with the movement of those trains. That remark got

into the newspapers and produced the effect which I will presently show you, and a pretty strange effect it was. I now read Du Barry's first examination, when he was put upon the stand by the defence, and before I made these remarks which are printed here in this case; I read from page 594:

Q. Turn to the 13th, if you please, and see if any train left Elmira, coming south, after 12 o'clock on the afternoon of the 13th? A. There is no record of such a train.

Well, I did not understand that. I knew if human testimony was to be relied on that Surratt did come on a train here from Elmira, and that from the depot he went to a barber shop and got shaved, for we had any number of witnesses who saw him. But the witness stated that no train left Elmira coming south after twelve o'clock m. on the 13th. Well, the witness stated what was a fact. No train did leave there after twelve o'clock; but a train did leave Elmira at half-past ten o'clock, and that was the train Surratt was on, as we have proved.

Q. No train leaving Elmira after 12 o'clock on the 13th? Now what time of day on the 13th and 14th did the trains coming south leave Elmira? A. The schedule called for a train leaving there at 8 o'clock in the morning.

Very likely the schedule did. There was not any perjury committed by the witness in making that statement, but it is not far from it. When a special train left at 10½ o'clock, to say nothing about it, but to state that the schedule time is 8 o'clock and that no train left after 12 o'clock looks to me very much like a suppression of the truth; and the law says that the suppression of a truth is as great a lie as the statement of a falsehood.

Now I take up the cross-examination:

Q. Do you say that there was no train running through from Elmira with soldiers on that day?

The COURT. Which way?

Mr. PIERREPONT. This way, coming south on the 13th.

A. I cannot say that there was no train with soldiers.

At that time I did not know, and my friend the learned district attorney did not know, exactly what time this train left; but we found out afterwards, as we shall show. The schedule time was 8 o'clock, and no train did leave after 12 o'clock, but a special train left at 10½ o'clock, and he came on that special train. Now let us read further:

Q. On the 13th, 14th, and 15th? A. The road was partially repaired, and one train was running through daily.

Q. They ferried? A. That was not on my route.

Q. Don't you know they ferried? A. I do.

Q. Didn't you go over the ferry yourself? A. I did, on the 14th.

Q. But you were not at Elmira on the 13th? A. No, sir.

Q. Were there any trains that did not run on schedule time? A. I have no record of them.

Q. Were there any? A. Not that I am aware of.

How did that leave the case? It left it without any evidence of this 10.30 train, did it not? It left it apparent that this Mr. Du Barry was not at Elmira on the 13th. Was he? We will see what occurred after this remark of mine, of which I have spoken, got into the newspapers.

We finally succeeded, after much trouble, in getting Mr. Rogers, the very engineer who ran the special train the other way. He met Surratt at Troy on the 13th. In that way we got at the correct time, showing that he left Elmira at 10.30 on the morning of the 13th. We show the further fact that Du Barry was in Elmira at that time. Du Barry, you remember, testified that he was not there. He was therefore mistaken, as he admits in his subsequent testimony. We brought Surratt across the ferry. Two men saw him. The witness Drohan took him across alone, going up to him when in the middle of the stream and collecting his fare. He talked with him and looked him directly in the face; and the moment he entered this room and saw the prisoner he said he recognized him as the same man. He was not cross-examined by the learned coun-

sel for the defence; but immediately upon the conclusion of the examination in chief, Mr. Bradley, in a very theatrical manner, said, "Go away; I don't want any more." My friend, Mr. Carrington, pronounced that to be acting superior to anything that Forrest ever performed. I do not know anything about that, for I do not understand that kind of thing. My custom is merely to present the evidence to you in a plain and simple manner, in such a manner as may aid you in coming to a proper determination in regard to the issues before you. My object on this occasion is, before my fellow-men, and before God, to help you to arrive at the truth. I thought it strange that counsel did not cross-examine him, but I concluded that the prisoner, when he saw the face of that old Irishman, and recalled the fact of crossing the ferry with him alone, and having a conversation with him about the price in the middle of the river, knew he would only clinch the nail the tighter by cross-examination, and therefore the counsel very wisely refused. But they thereby prevented me from bringing out a good many striking things which I should have done if a cross-examination had been had. Whether it was acting or not I do not know, but I can say this—it was very shrewd and skilful in them, and the counsel deserve credit for it as a professional exhibition.

After we had examined these other witnesses, and after the remark to which I have alluded appeared in the newspapers, we called Mr. Du Barry, and he told us all about it. We were a great deal bothered about this thing at first, this "physical impossibility" of getting the prisoner from Elmira to Washington, in regard to which the counsel had said so much. We knew that he did get here, but we were not able to show how he got here. We were trying, but we did not get along very well. Finally, one morning, you may have noticed that when we were about to commence with the proceedings of the day, I suddenly got up and went out of this room, and in about ten minutes as suddenly returned with Mr. Du Barry, their witness, whom they had put upon the stand, and who had said that he was not in Elmira on the 13th at all, and who had further stated that there was no record of any train after 12 o'clock on that day. Mr. Du Barry took the stand and told us the whole story, and here it is. Then we at once got over this physical impossibility.

Q. You were called and sworn by the defence before, were you not? A. Yes, sir.

Q. Have you the same records with you now that you had then? A. Yes, sir.

Q. Won't you tell the jury what railroad connection there was between Sunbury and the city of Washington on the 13th and 14th of April, 1865—what were the modes of getting to Washington?

Then he went on and told the various modes, and told them fairly. I have no fault to find with Mr. Du Barry. Though he didn't at first recollect, yet when his mind was refreshed he came here and told the whole truth, and here it is:

Q. Do you know anything about the special train? A. No, sir.

I would at this point like to correct some evidence that I gave when I was on the stand before. The question was asked me as to whether I was in Elmira on the 13th. I answered, "No, sir." Since that time I have sent for the telegraphic despatches of that date, and I find that I promised to be in Elmira at that time; and I believe I was in Elmira on the 12th and 13th.

Gentlemen, was my statement to you incorrect? Wasn't it as I have now read it? Let us see:

Q. But you do not remember? A. I cannot fix it by any circumstance.

Q. Will you come down to Sunbury? Will you tell us when the freight train left Sunbury on the afternoon of the 13th of April, 1865? A. At 4.30 p. m., by the record.

We could not get that before.

Q. Will you tell us when the passenger train left on the same day? A. A passenger train left Sunbury, by the record, at 12.13 on the night of the 13th and the morning of the 14th.

Q. When did that reach Baltimore? A. From the record, at 7.25.

Q. On the morning of the 14th? A. Yes, sir.

The learned counsel's physical impossibility instantly vanished into thin air

with that testimony. After it was given you heard no more about the physical impossibility of the prisoner's getting from Elmira to Washington at that time. Du Barry put that matter all right.

Now we will see what the railroad man, who brought it from Baltimore here, says. I read from Mr. Koontz's testimony, page 1148:

Q. Tell me the time of the arrival of the trains in Baltimore on the 14th of April, 1865.

A. I do not know.

Q. Tell me at what time the first train left on the 14th. A. At 4.20 a. m., and reached Washington at 5.45 a. m.

Q. When did the next leave? A. 5.30 a. m.

Q. When did that arrive? A. 7.20.

Q. When did the next leave? A. 7 a. m.

Q. When did that arrive in Washington? A. 8.43 a. m.

Q. When did the next train leave? A. 8.50 a. m.

Q. When did that arrive? A. At 10.25 a. m.

Mr. BRADLEY. Now get him to the barber shop here so as to be shaved at 9 o'clock.

Mr. PIERREPONT. I will get him here most beautifully, and so smoothly that you will see him shaved without a quiver. My friend Mr. Bradley is very much troubled about that barber shop, but we will relieve all his anxiety on that subject. But let us see whether he was on the train or not, because if he was not on the train he did not go to the barber shop.

Mr. Pierrepont said he would first call the attention of the jury to the relative positions on the map of the cities of Elmira, Williamsport, Harrisburg, Baltimore, and Washington. Having done this, he read from the testimony of Mr. Strayer, page 1036:

Q. State whether on the 13th of April, 1865, you were in Elmira. A. Yes, sir; I was there in the morning.

Q. What time did you leave there? A. I could not tell you exactly the time. I was twenty-five miles south of there about half past eleven. I suppose I left there about ten or half past.

Q. You left Elmira. Was that a special train? A. Yes, sir; the second section of the mail.

Q. Where did you run to? A. To Williamsport.

Q. Williamsport lies directly south of Elmira, does it not? (Exhibiting a large map of that section of the country.) A. Yes, sir.

Q. What is the distance between Elmira and Williamsport? A. Seventy-eight miles.

Q. Did you meet any other conductor on the way? A. I met the mail north.

Q. Who was the conductor? A. Mr. Rogers.

Q. Is he here now? A. He is in the city, in some place.

Q. Where did you meet—at what point? A. At Troy.

Q. Is Troy between Elmira and Williamsport? A. Yes, sir; 25 miles south of Elmira.

Q. What river is there at or near Williamsport? [No answer.]

Q. Can you tell exactly the hour when the two trains got there? A. It was between the hours of one and two o'clock that I got to Williamsport.

Q. Did you go no further than Williamsport? A. No.

Q. You took passengers? A. I was the second section mail. The first train took the mail and the passengers.

Q. Do you know a ferryman at Williamsport who was ferrying there at that time? A. Yes.

Q. What was his name? A. There are two; one's name is Bligh, and the other has a funny name; I cannot remember it.

Q. Was it Drohan? A. Yes, sir; some such name.

Q. Are you still in the employ of the railroad company as engineer? A. Yes sir.

I now turn to the testimony of Mr. Hepburn, train-master, on page 1046:

Q. How many construction trains were running? A. Two between Williamsport and Sunbury.

Q. They did not run, as I understand it, at regular hours? A. No, sir; they had the right of the road to work from morning till evening, keeping out of the way of the regular trains.

Q. Do you know whether they had orders to take passengers? A. They had orders to carry passengers through to any point they run to.

Q. They obeyed the orders, of course? A. Yes, sir.

Q. Can you tell the jury if the construction train left Williamsport ferry at half-past twelve o'clock, at what time it would reach Sunbury, if it went directly through?

(Question objected to by Mr. Bradley. It had not yet been in evidence that any train run that day. The court said the time might be proved first.)

A. The running time for a passenger train was an hour and forty minutes. The gravel train, with an ordinary load, would run it in a little over two hours.

Mr. WILLIAMSBLEY. From Williamsport to Sunbury? A. Yes; that is, to the other side of the bridge.

Q. Do you mean the regular time was an hour and forty minutes? A. Yes, an hour and forty or fifty minutes.

Q. That was the time on the 13th of April, 1865? A. Yes, on the 13th. Before the 10th it was longer.

Q. Who gave the orders in respect to carrying passengers on the construction trains? A. I gave the orders, or they were given by me to the clerks and they ordered it.

Q. Would passengers frequently come through in that way? A. The conductors remitted money every day, or return tickets.

Q. Did they, or not, start out in the morning to supply the work of the road, going from point to point as they were required? A. Yes, sir; the bridge of Williamsport was being repaired, and the gravel train was run to and from the bridge.

I next read from page 1047:

Q. The train went from Watsontown to the bridge, as I understand it, and back again, as occasion required it? A. Yes, sir.

Q. There was no time for starting, arrival, or anything else; they were merely required to keep out of the way of the passenger trains? A. Yes, sir; the train east at that time was hauling wood from Watsontown to Sunbury.

Q. Was that on the 13th of April? A. Yes.

I read further from page 1048:

Q. What time did the train leave Sunbury for Baltimore on the afternoon of the 13th? A. At 4.30.

Q. At what time did it arrive in Baltimore? A. I think about 3.50.

I next read from the testimony of Mr. Westfall, pp. 1055, 1056, and 1057:

Q. At Williamsport, how far from the ferry is the depot where the trains coming from Elmira stop? A. About three-quarters of a mile.

Q. Were you at the depot that morning? A. I was there when the trains arrived from Elmira that day.

Q. Tell the jury what trains did arrive from Elmira? A. There were two trains that arrived between twelve and two.

Q. Were you there when the eight o'clock train leaving Elmira arrived? A. Yes, sir.

Q. What time did it arrive? A. Between the hours I have named. I could not tell the exact minute.

Q. One of them was the eight o'clock train from Elmira? A. Yes, sir.

Q. Were you there when the special train arrived at 12.30? A. Yes, sir.

Q. Will you state what occurred after the arrival of that train? A. A man came to me who was very anxious to get through. He asked some questions with regard to the train. He inquired what would be the probable chances of getting over the line. I took him to be either a rebel spy or a government detective. I cut him off very short; did not give him much satisfaction, because I thought it was none of his business as to how we run our trains at that time.

Q. Do you know which way he went? A. I could not say as to which way he went.

Q. Did you know the ferryman? A. Yes, sir.

Q. Did you see the ferryman afterwards? A. Yes, sir; I saw him that evening.

Q. Did you have any conversation with the ferryman that evening?

(Objected to by Mr. Bradley. Withdrawn.)

Q. When did you next see the ferryman, after you had the conversation with the man that you saw after the arrival of the special train?

(Objected to by Mr. Bradley. Objection overruled. Exception reserved.)

A. That evening about half past six o'clock.

Q. About what time was it that this man had the conversation with you in relation to making these inquiries about your trains? A. I should judge between twelve and two. I could not fix the time precisely.

Q. Have you seen anybody since that looks like him? A. I cannot say that I have seen any person that I could swear to positively.

Mr. PIERREPONT. I did not ask you as to whether you had seen any person whom you could swear to positively as being the one. I ask you if you have since seen anybody that looks like him.

The COURT. Ask him if he has seen anybody since that he believes to be the man.

Q. Have you seen anybody since that you believe to be the man? A. Yes, sir, I have.

Q. Do you see him now? A. Yes, sir.

Q. Do you know the prisoner? A. The prisoner is the man; that is my impression.

Q. Will you tell us when you left Williamsport that day?

WITNESS. Going in which direction?

Mr. PIERREPONT. In any direction.

Q. After this conversation, did you stay in Williamsport? A. Yes, sir; I remained in Williamsport, after transferring the passengers north, until about nine o'clock.

There is a great difference in men with regard to the manner of making their statements. Some men will state a thing positively, and others will not be so positive in their declarations. Some men, when they desire to express their firm conviction of a fact, will do so by saying they "*think*" such is the fact. Others will say, "*It is the fact.*" For instance, my confident belief is, that there has been no day in these many weeks in which every man of you has not been in his seat. I *believe* it is so, and yet if I were called to-day and put upon that stand and asked to swear whether every man had been here the whole of the time, or whether one day after recess one man was not absent, I would not swear positively that you had each one been here every hour. I believe you have been; I think it is so, and in that way I should swear. But some men with the same knowledge would be more positive than I, and say yes, they *knew* it was so.

Q. Do you know whether they were ordered to take passengers? A. Yes, sir; they were at that time, because the road had been obstructed. We gave the men orders to carry persons going from one point to another.

Q. Will you tell about the speed at which these construction trains were running? A. They were running at a very rapid speed at that time.

Q. Tell the jury why that was. A. Because, as a general thing, when we wanted anything we would go in a good bit of a hurry for it, and in getting things for the bridge it was very necessary to lose as little time as possible.

Q. How were they running then compared with the passenger train in speed? A. I should judge they would make about the same time.

Now, gentlemen, I have read to you what this man has said about seeing Mr. Westfall.

Mr. PIERREPONT next read from page 1045 as follows:

Q. On the 13th, 14th and 15th of April, 1865, had you anything to do with the ferry across the Susquehanna at Williamsport? A. Yes, sir; I ran it.

Q. Do you remember a special train coming in from Elmira on the 13th, or anybody coming up to be ferried over? A. I do not remember anything about a special train. I remember a man coming to be ferried over.

(His examination objected to by Mr. Bradley. Objection overruled.)

Q. State what occurred and what you were doing when this man came? A. I was on the other side of the ferry—on the Williamsport side.

Q. Was that the same side as Elmira? A. Yes; it is the same side on which the Elmira train comes in.

Q. Now, tell us what you were doing? A. I was coiling up my rope, when the man came to me and asked me to ferry him across to this side. I asked him if he would pay if I would ferry him over, and he said yes.

Q. Was there anything that called your attention to him? A. Yes.

Q. How was he dressed? A. He had a peculiar coat on.

(His examination objected to by Mr. Bradley. Objection overruled.)

Q. Did the man say anything about ferrying? A. He said he wanted to go to the other side.

Q. Did he say when he wanted to go to the other side? A. Not to my knowledge.

Q. What did he say in relation to his desire for quickness? A. He said he wanted to go to the other side—

Mr. BRADLEY insisted that the witness should give a narrative, and not be interrupted with questions at every sentence.

Q. I asked you to state what the man said. A. I have said he asked me to ferry him across to the other side. I told him the charge would be fifty cents. In the middle of the river I generally made it a rule to stop the ferry to get my pay, when the party had not a ticket of the company. He gave me a dollar bill, and I had no change, and I kept the dollar bill; he said that I might have it.

Q. Have you seen that man since? A. I have.

Q. Is that the man? (pointing to the prisoner, who stood up.) A. To the best of my belief, that is the man.

Cross-examined by Mr. BRADLEY:

Q. Who brought you here? A. The authority of the government.

Q. Who came after you? A. I don't know the gentleman.

Q. A young man or old man? A. A middle-aged man.

Q. Do you see him in court? A. Yes; that is the gentleman, (pointing to Colonel Montgomery.)

Mr. BRADLEY (to witness.) You may go; get down from that stand; I don't want anything more of you.

We have now got him started along on a train which could bring him from that point here into Washington without any difficulty whatever about 10 o'clock on the morning of the 14th. That has been proved, though through much tribulation, and there has not been any witness to doubt Mr. Westfall, who told you that the prisoner was the man he saw who was making inquiries of him, nor any man to dispute Drohan, who told you he was the man he took over the ferry. These witnesses were in the employ of the road, and could have no possible object in coming here to give this testimony if it was not the truth. We sent for them, and they came and gave their testimony—testimony that will stand the test of truth when you and I and all appear before the great judgment seat.

We have now got the prisoner here at 10.25, and are on the road to the barber's. I now propose to turn to the barber's testimony. He was an early witness in this case, and there was plenty of time for them to learn who he was and how long he had lived here, and what was his character for truth and veracity, whether he was a bad or a good man, and whether he was a Protestant or a Catholic. No doubt they did inquire about all these matters and found it impossible to bring any witness to impeach him. Now let us see what Wood tells us happened on that morning. It is one of those things about which there could be no mistake. He must either have perjured himself, or else have told the truth. He could not have been mistaken. I begin at page 514:

Q. What is your business? A. I am a barber by trade.

Q. Have you been a barber in the city of Washington for some time? A. Yes, sir; ever since I have been in the city.

Q. How many years? A. Since December, 1862.

Q. Where was your barber shop in April, 1865? A. I came here on a Saturday, about the first of September, 1862, and I engaged to go to work at Messrs. Booker & Stewart's barber shop, on E street, near Grover's theatre, next to the old Union building.

Q. In this city? A. Yes, sir.

Q. Are you working at the same shop now? A. No, sir: I now have a barber shop under the Ebbitt House, near Fourteenth street. I am now in business for myself.

Q. Did you know Booth by sight before the assassination? A. Very well, sir.

Q. Did you ever cut his hair? A. I have, frequently.

Q. Did you ever shave him? A. I have.

Q. You knew him well? A. Very well, sir.

The prisoner at the bar was here requested to stand up, which he did.

Q. Have you ever seen that man (pointing to the prisoner at the bar) before? A. I have.

Q. On the morning of the assassination did you see him? A. Yes, sir.

Q. Where did you see him? A. I saw him at Mr. Booker's barber shop.

Q. What did you do to him? A. I shaved him and dressed his hair.

Q. Will you tell us who came into the shop with him, if anybody? A. Mr. Booth came in; there were four persons who came together.

Q. Who were the four persons besides Booth and Surratt? A. A gentleman I take to be Mr. McLaughlin—they called him "Mac."—and from his appearance, (I having since seen the picture of Mr. McLaughlin,) I should think it was him.

Q. Did he tell you where he had come from that morning—McLaughlin. A. They were speaking of Baltimore; the conversation between them was in reference to some Baltimore—

Q. Between whom? A. Between Mr. Booth, Mr. McLaughlin, and Mr. Surratt, the other gentleman that was with them had nothing to say; he sat down nearly in the rear.

Q. Did you ever see the other man afterward? A. I never saw either of the parties afterward except this gentleman, (the prisoner.)

Q. Who was the other man, do you know? A. I did not know him.

Q. You may describe the man. A. He was a short, thick-set man, with a full round head; he had on dark clothes, which we generally term rebel clothes, and black slouched hat.

Q. Did you cut Booth's hair that morning? A. I did. I trimmed his hair round and dressed it.

Q. Won't you tell the jury what occurred between Booth and Surratt while you were trimming Booth's hair? A. There was nothing particular that occurred.

Q. What was said? A. While I was waiting on Mr. Booth, Mr. Surratt was sitting just in the rear of me; the thick-set man was sitting to the left of the looking-glass, just in the rear of my chair. The glass was next to the wall, and Mr. Surratt was on the right side of the glass, the other one on the left hand. There were not any words particularly that I remember said or interchanged; but when I got through waiting on Mr. Booth, he (Mr. Booth) got out of the chair and advanced toward the back part of the shop; Mr. McLaughlin was in that direction doing something about the glass. Mr. Surratt took my chair immediately on Mr. Booth's getting out. During the time that I was spreading my hair gown over him, and making other preparations for shaving him, this other young man, rather tall, with dark hair—I think not black, but dark brown hair—rather good looking, with a mustache, was figuring before the glass. He had on a black frock-coat, and putting his hand in his pocket he took out two black braids; one of the braids with curls he put on the back of his head, allowing the curls to hang down; he then took the other braid and put it on the front; it had curls also, and they hung on the side. When he had done this he said: "John, how does that look?"

Q. Whom did he address as John? A. I do not know whether it was Mr. Surratt or Booth, but in making the remark, he said "John." I turned round and said, "he would make a pretty good-looking woman, but he is rather tall." Says he, "Yes," in rather a jocular manner, laughing at the time. He seemed to look taller to me when he put on these curls than he did before, though I had not taken particular notice of him before that. This time Mr. Surratt said to me: "Give me a nice shave and clean me up nicely. I am going away in a day or two."

Q. Will you state, when he said "Clean me up nicely," what his condition was as to being clean or not? A. He seemed to be a little dusty, as though he had been travelling some little distance, and wanted a little cleaning and dressing up, as I am frequently called upon by gentlemen coming in after a short travel.

Q. Did he say anything to you about Booth? Yes, sir.

Q. What was it? A. He asked me if I noticed that scar on Booth's neck. Says I, "Yes." Says he, "They say that is a boil, but it is not a boil; it was a pistol-shot." I observed, "He must have gone a little too far to the front that time." This gentleman (Mr. Surratt) observed, "He liked to have lost his head that time." I then went on and completed the shaving operation. I shaved him clean all around the face, with the exception of where his mustache was. He had a slight mustache at the time.

Q. What did you do with the hair? A. After I was done shaving I washed him off in the usual way, dressed his hair, and put on the usual tonics and pomade.

Q. Tell the jury what time in the morning it was. A. I think it was near about nine o'clock. I had had my breakfast.

Q. Where had you been that morning? A. I had been up to Mr. Seward's, and had come down again.

Q. Where did you find Mr. Seward? A. In his room, third story.

Q. Was he up or in bed? A. He was up.

Q. Did you see any other gentlemen at Mr. Seward's that morning? A. Yes, sir; I think I did.

Q. Whom did you see? A. Mr. Stanton called. Mr. Seward was either on the bed or on the chair by the bed when I shaved him. I do not remember now exactly which.

You saw that man, and you heard his testimony. You heard all these little circumstances that he narrated. Do you believe him? Every man of you does. He could not have been mistaken, and he did not perjure himself. Now I repeat, the "physical impossibility" of which the gentlemen speak has entirely vanished.

The court here took a recess until ten o'clock to-morrow morning.

TUESDAY, August 6, 1867.

The court met at 10 a. m.

Mr. PIERREPONT resuming, said: You will recollect, gentlemen, when a call was made several days ago by Mr. Merrick, one of the counsel for the prisoner, asking that we should produce the record of the conspiracy trial, that I brought the original record here and handed it to the counsel. I then stated that, as a part of that record was a suggestion made by a part of the court that tried the conspirators, that if the President thought it consistent with his public duty they would suggest, in consideration of the sex and age of one of those condemned, that a change might be made in her sentence to imprisonment for life. I stated that I had been informed that when that record was before the President, and

when he signed the warrant of execution, that recommendation was then before him. I want no misunderstanding about that, and do not intend there shall be any. That is a part of the original record which I here produced in court. It is in the handwriting of one of the members of that court, to wit, General Ekin. The original of that is now in his possession, and in the handwriting of Hon. John A. Bingham. When the counsel called for that record I sent, the afternoon of that day, to the Judge Advocate General, in whose possession these records are. He brought it to me with his own hand, and told me with his own voice, in the presence of three other gentlemen, that that identical paper, then a part of the record, was before the President when he signed the warrant of execution, and that he had a conversation with the President at that time on the subject. That is my authority. Subsequently to this, having presented it here, the Judge Advocate General called to receive it back, and reiterated in the presence of other gentlemen the same thing. That is my knowledge, and that is my authority. It has nothing whatever to do with this case, but the counsel called for the record, and it was for that reason produced.

I come now, gentlemen, to where we left off, which was with the testimony of Wood, the barber, who shaved this prisoner after his arrival from Baltimore, on the morning of the 14th. I have already said to you that a man could not go through with what he went through there, and be mistaken; that having shaved him and cut his hair, after the conversation he had with him in relation to Booth's wound, and in relation to the other things that occurred in the shop, noticing that he came in there dusty as from travel—from the length of time he was there, and from all the circumstances and conversation going on—he could not be mistaken.

Now, the gentlemen say he was not there at the exact hour the barber said he was. That is the only criticism they have ventured to make upon this subject. Gentlemen, I will undertake to show from this evidence that he was there at that time—under any fair construction of it, that he was there at the very hour he stated. Now let us see exactly what he did state, on page 496 :

Q. Tell the jury about what time in the morning it was. A. I think it was near about nine o'clock. I had had my breakfast.

That is all he says on the subject of time. Now let us see further :

Q. Where had you been that morning? A. I had been up to Mr. Seward's, and had come down again.

Q. Where did you find Mr. Seward? A. In his room, third story.

Q. Was he up or in bed? A. He was up.

Q. Did you see any other gentlemen at Mr. Seward's that morning? A. Yes, sir; I think I did.

Q. Whom did you see? A. Mr. Stanton called. Mr. Seward was either on the bed, or on the chair by the bed, when I shaved him. I do not remember now exactly which.

Now let me call you back, gentlemen. This, you will remember, was on the 14th of April. We were then in the shorter days of the year. The witness did not undertake to fix the exact time. Nothing occurred by which he could fix the exact time; he only gives us his general impression as to about when it was. He tells you he had had his breakfast; that he had been away up to shave Mr. Seward, who was, as you know, an invalid then, suffering from the accident he had met with. He shaved him in his bed, or on the side of the bed. He had gone through all that operation, met the Secretary of War there, and had returned to his shop before this occurred. Now, in the natural course of things, in going up to Mr. Seward's, who then, as you know, lived opposite Lafayette Square, and having taken the time that was required to shave him, at what time in that season of the year, in the natural progress of events, having taken his own breakfast, would he be likely to get back to his shop? I ask you, as men of good sense, and men of fairness, to tell me, after having gone through all this, what time would he have naturally returned to his shop, sup-

posing this thing to occur immediately after? It is not of the slightest consequence whether he should think it was somewhere about nine o'clock, or somewhere about ten o'clock. It was undoubtedly somewhere about ten o'clock, or a little after ten. I ask you, as honest men, what you think about that? Is it likely? Do I present this in any unfair, or unreasonable, or improbable way? The witness did not attempt to fix the time; he did not undertake to fix it at all. These facts were what he undertook to state, and these are the facts.

Now, the only defect in the defence on this subject was, that they did not undertake to call little Hess, the little fellow you saw on the stand with blue-black hair, very heavy mustache, very dark, swarthy face, to personate Sur-ratt, as he did undertake to personate him in front of the theatre. They ought to have had Hess here to have stated that it was he the barber shaved. They had Hess for another purpose, to which I am presently coming. You saw how much this little fellow, with two dark eyes, black hair, swarthy face, and heavy mustache, looked like the prisoner at the bar.

I now come to the testimony of Rhodes. You just saw what kind of a man Rhodes was. I think men of your sense in seeing a witness in that way can tell a great deal about him. He was what they would call in my country a prying, curious Yankee, moving about, a mender of clocks, having a great curiosity to go around into different places, and see what he could see, and in his going about he came to this theatre, and had a curiosity to go in and see it. The other side undertook to show by Mr. Ford (who, when I came to cross-examine him, admitted that he was in Richmond at the time) that he could not have gone into the theatre because it was locked. It finally turned out that the theatre had four doors besides those at the side and rear, and I will engage that a Yankee could have got in somewhere if he had tried. He says he did get in. Is there any reason to doubt his statement? Had he any motive for telling a lie? He was not paid for it. He didn't get a job of mending anybody's clock by it. It was the most natural thing in the world for a man like him to do. Moving about, he came to that theatre and went in. He talked about a picture scene; the man did not know the difference between the curtain and the scenes that shift on the stage, as it finally turned out, for it was the stage scenery he saw and described as a curtain. He is not a man who has money; not a man in the habit of visiting theatres, and therefore he had the curiosity to go into this theatre in the daytime to see it. Now let us see whether he tells the truth or not.

I read from page 481. The testimony is :

Q. State as near as you can what time in the day. A. As near as I can impress it upon my mind, it was within half an hour of twelve o'clock when I entered the building.

You notice that these witnesses tell us that these rehearsals generally commenced about 10 o'clock, and you know that the American Cousin lasts about an hour and a half.

Q. After entering the theatre, state if your attention was directed by anything you saw going on in one of the private boxes. A. I went in merely to look at the theatre. I went up the steps to the second floor; went down in front where the circle was, to look upon the stage; while there I saw one of the box doors open a little and shut. I was anxious to see from that point of view, and supposing some one was in there, having heard some one stepping about, I went down to the box and looked out from that point. As I approached the box whoever was in there walked away out of the box, and I entered and looked from that point on the stage. I had been looking there about a minute or two when the same person, I suppose, who went out of the box returned and spoke to me. He said he was connected with the theatre. We then had a few words together, when my attention was again drawn to the scenery on the stage. They had a curtain down that had recently been painted, I believe, and I stood there looking at that. Then I heard this man behind me doing something. In turning around to see what it was he was doing—I supposed he was looking down as I was—I noticed that he had a piece of wood; whether he had it under his coat or was taking it out I cannot say. The piece of wood was about three feet long and about as wide as my two fingers—may be a little more in the centre—slanting a little towards each end from the centre. As I turned around he said, "The President is going to

be here to night." That was the first intimation I had of the expected presence of the President that night. I said, "He is!" He then said, "We are going to fix up the box for his reception. I suppose there is going to be a big crowd here, and we are going to endeavor to arrange it so that he won't be disturbed."

Some excuse had to be made for these arrangements, and this was the excuse he gave :

He then fixed this piece of wood into a small hole in the wall there as large as my thumb. I should think the hole to be an inch or an inch and a half long, and about three-quarters of an inch wide. He placed one end of this stick in the hole, and it being a little too large, took a knife and whittled it down a little. He also gouged out the hole a little for the purpose of making it fit. Then he placed it against the panel of the door across to the wall, forming an angle. He says, "The crowd may be so immense as to push the door open, and we want to fasten it so that this cannot be the case." He asked me if I thought that would hold it sufficiently tight. I told him I should judge that it would hold against a great pressure; that a hole would be punched through the panel of the door before it would give way. The wood was either of oak or of North Carolina pine. I am not acquainted with that kind of wood, but I am rather of the impression it was North Carolina pine, which is a very tough wood, I believe. After he had fitted that to suit him, we had a few words more together. I then heard some one come across the stage, back of the curtain.

The DISTRICT ATTORNEY. You have spoken of this interview with a person. I will ask the prisoner to stand up here. [The prisoner did so.]

Q. State if that is the man, (pointing to the prisoner,) and whether you saw him there. A. I should judge that was the man.

Q. Have you any doubt about it? A. No, sir.

Q. State all that occurred. A. I thought it was singular that the proprietor of the theatre could not afford a lock for a box of that kind. That was what passed in my mind.

Q. What became of the prisoner. Was he there during the whole time? A. No, sir; he went out before they came into the box.

Now, when this stick that I have sent for is brought in, you will see that the piece which has been cut off, and is tied to it, shows, on examination, that it had been made smaller at the end, as this man swears it was, to enter the hole. Now, I want to call your attention in this connection to the testimony of Judge Olin. On page 519 Judge Olin states what he saw :

A. I perhaps might not improperly say that I saw a report that the President had been shot through a door, and I commenced taking preliminary examinations in reference to this matter. I went there personally, in company with Senator Harris and Miss Harris. Rathburn, who was with them at the time of the murder, was disabled by his wound from going there. I went there to examine the premises personally, to be able to understand as much testimony as was applicable to the particular transaction. When I got into the theatre, I examined this hole in the door. If you can see this panel, (illustrating by a panel of the desk,) I can represent it about as well as any other way, by saying that it would correspond with a hole placed right here, right on the corner of the panel. You would scarcely notice it unless your attention was drawn to it. Placing your eye to the hole, it was about the height a person would occupy sitting in a chair inside. I saw that it was bored with a gimlet, and that a penknife had been used to take off the rough surface. The shavings and chips from that hole were still on the carpet, which had not been cleaned, and could be seen as you entered the box. I saw, too, that the entrance into this box from the body of the house was closed by a bar when shut at an angle, and some person had taken occasion to cut into the plastering of the wall a place into which the end fitted; and with the bar placed in it and the other end against the door, any person pressing against it from the outside, the stronger he would press, the tighter the fastening would become. The plastering cut from that hole was also lying at that time on the carpet, as you went into the box of the theatre. I delivered over the preliminary examination I had made to the War Department, and that ended my connection with the matter.

Q. What did you find in reference to the condition of the staple on the door that held the door-lock? A. The staple of the lock to the door went into a hasp with screws at each end. The screw at one end had been loosened in such a way that if you shut the door and locked it, (I tried the experiment once or twice,) you could push it open; you could take one of your fingers and push the door open although locked. One of the screws, the upper one. I think, had been screwed out in such a way that the door would open without any resistance, and without creating any disturbance, if locked.

Q. You tried the experiment? A. Yes, sir.

Q. Would any person, when the door was thus locked, have noticed that such was the condition of it, unless his attention was drawn to it? A. O, no; you saw nothing of that on the outside, and you would not see it on the inside without a careful inspection. It was just a little loosened, to that extent that the door could open when gently pressed against.

Q. Then the shavings from the wall and from the hole cut out of the door were all on the carpet? A. Yes, sir.

Mr. BRADLEY remarked that Judge Olin came in subsequently and corrected his testimony as to seeing shavings, &c., on the carpet.

Mr. PIERREPONT. He did not correct his statement. On the contrary, he stated, on his second examination, that his impression was the same then as now, and that if he were a painter he could picture it as it lay there.

Mr. BRADLEY said he would make the correction after the counsel had finished.

Mr. PIERREPONT. Now, gentlemen, that little fact examined into shows how these statements agree. Judge Olin, in passing through there, found the carpets had not been swept, and that the shavings were lying there. When he made the examination he saw them there, and, as he expressed it, could paint it as a picture. As he recalled it, it all lay clear before his mind. This is one of those little circumstances going to confirm just precisely what this man saw going on the day of the murder, showing that it had just been done, and it must have been done very shortly before, because preparations had been made to receive the President, to make the box clean, to have it swept and garnished, ready to receive the head of the government.

I come now to the testimony of Dr. Cleaver, page 207 :

Q. Were you in Washington on the day of assassination? A. Yes, sir.

Q. Have you any distinct memory of what you did on that day? A. Yes, sir.

Q. Will you state whether you were riding or walking? A. I was doing both that day ; I was pretty busy ; I was driving a black horse that day to exercise him.

He was a horse doctor, you remember ; and, perhaps, many of you know him.

Q. At what time in the day? A. I started out about two o'clock in the afternoon.

Q. Which way did you go? A. I went down to the Navy Yard first, and then down to the Congressional burying ground.

Q. When you came back, what street did you come? A. I went around by the Bladensburg tollgate, and came in H street.

Did you come in late or early? A. I got to the stable, I reckon, at four o'clock, or a little after four.

Q. Before you got to the stable, when you came down H street, did you meet anybody that attracted your attention? A. I met a great many.

Q. Did you meet any one in particular that attracted your attention? A. I met John H. Surratt.

Now he did or he did not see him ; let us see how this comes :

Q. The prisoner at the bar? A. Yes, sir.

Q. Did you know him very well? A. I have known him a good long while—I think I ought to know him.

Q. Was anybody riding with you at the time? A. Yes, sir.

Q. Is that person living? A. Yes, sir.

Q. How was Surratt moving when you met him, on horseback or on foot? A. He was on horseback.

Q. What kind of a horse was it? A. I did not notice the horse much ; I think it was a chestnut-sorrel, a rather darkish horse.

Q. Is chestnut-sorrel a dark color? A. Yes, sir.

These horsemen know the colors quicker and better than I do, and perhaps better than you.

Q. State whether you spoke to him? A. I spoke to him and said, "How are you, John?" He nodded to me ; I do not know whether he spoke or not ; I was jogging along at a pretty good gait.

Q. He bowed to you, and you said, "How are you, John?" A. Yes, sir.

Now, gentlemen, this witness knew the prisoner and had known him for years. As I read the other day, he kept his horse at his stable, and so did Booth. He did not make any mistake about it. He either committed the grossest perjury, or he tells the truth. He is not mistaken ; that excuse cannot be given for him. Let us see how it happened that the government got hold of this evidence. It was not from any favor of Cleaver. He did not want the government to get hold of it. On page 209, in his cross-examination, he tells you that.

Q. Did you tell that you saw John H. Surratt in this city on the afternoon of the 14th, the day of the murder? A. No, sir ; I did not.

Q. Did not you know it was of importance to find out whether John H. Surratt was concerned in the murder or not? A. Yes, sir.

Q. Then why did you not tell them what you knew? A. I was well acquainted with Surratt and inclined to shield him.

This is on cross-examination, and he tells you "I was well acquainted with Surratt and inclined to shield him." And that was the truth about it. Cleaver, as I said before, was an Englishman; he was in sympathy with the rebel government; he was our enemy. He was inclined to shield Surratt, and that is the reason. I now turn to page 202 :

Q. I want to know the first person to whom you told that you saw John H. Surratt on the 14th of April. A. I may have told a great many—I cannot recollect.

Q. Do you know whether you told it to anybody before you told it to Sanford Conover? A. No, sir.

Q. Were you at large in the city when Surratt was arrested? A. No, sir; I was in the city.

As you know, he was under arrest and in prison for a crime with which he was charged connected with the other sex. You know all about it, I suppose, and I do not need to go into it.

Q. I do not speak of the time you met him. During the conspiracy trials you knew it was an important fact to ascertain whether he was in the city on that day or not? A. Yes, sir; and I should not have told it now if it had not been for Conover.

Who was in prison with him, as you remember.

He soon told somebody, and the first thing I knew somebody came to the jail to see me. I got very mad at Conover. I did not want to answer the question.

Q. Did you say it was in the jail? A. Yes, sir.

Q. Who came to see you? A. I think it was Mr. Ashley, a stoutish gentleman.

Mr. Ashley was a member of Congress and of the Judiciary Committee, as you all know. It is a part of the public history of the country.

I asked him, and he told me how he came to know of it. I would not answer the question until he told me who had told him of it. I knew I had not said it to anybody but Conover. When I went back I never spoke to him for six or seven days.

Q. Then you had a talk with Mr. Ashley? A. Yes, sir.

Q. Did you tell him about all these things? A. No, sir.

Q. What else did you fail to tell him? A. I did not tell him a great many things; I never told him of the sale of Booth's horse to Arnold.

Q. Did Mr. Ashley write down what you said? A. No, sir.

Q. You have been asked about the sale of a horse to Arnold. What was that?

Mr. MERRICK. We have not asked that.

Mr. PIERREPONT. It came out some way in cross-examination.

The court ruled that the question might be asked.

A. Booth came down to the stable on the 27th or 28th of January, and paid his livery; I think to the 26th. Then he came about the 27th or 28th and paid his livery up to February 1, and Sam. Arnold in company with him. He then told me, in Arnold's presence, that he had sold the horse to Arnold, and that Arnold was to pay the livery from that time on.

By Mr. BRADLEY:

Q. Who was the Mr. Ashley who called on you at the jail? A. I don't know him only by that name. I believe he is a member of Congress. I never saw him before in my life.

Q. What sort of a looking man is he? A. A stoutish man.

Q. Did you understand he was a member of Congress? A. Yes, sir; he told me who he was.

Q. Have you received any offer of favor or reward for the testimony you have given in this case? A. I have not, from anybody.

Q. You are quite sure of that? A. Yes, sir; I have not, from anybody.

By the DISTRICT ATTORNEY:

Q. And we understand you to say you had no idea of revealing this? A. I did not; I told it to Conover confidentially.

Now, gentlemen, is that honest testimony? It came from a man having no sympathy with this government; it came from a man who was a friend of this prisoner. It came from a man who admits himself he wanted to shield him—who told his fellow-prisoner in jail, where they were lying day after day together, and where men will talk, that he had seen, met, and spoke with Surratt on H street, on this very day of the murder. He told him in the strictest confidence. Conover tells this member of Congress of it, who comes to see him in jail, and in that way it is forced out of him; and it is true.

I now come to the testimony of Reed, on page 158. I have here to remark

that this same Reed was a tailor in this city, who testified before the commission, whose testimony is here printed in the book. They called his attention to his former testimony, and it confirms his statements now on the stand in every particular.

Mr. MERRICK said he thought the testimony of Reed before the military commission was not referred to in this examination.

Mr. PIERREPONT. We will examine and ascertain. Reed testifies now :

Q. In what city do you live? A. In Washington city.

Q. How many years have you lived here? A. About thirty years.

Q. Do you know the prisoner at the bar by sight? (Prisoner made to stand up.) A. I do.

Q. How long have you known him by sight? A. Since quite a boy.

Q. Since you or he was quite a boy? A. Since he was quite a boy.

Q. Were you in the city of Washington on the day of the murder of the President? A. I was.

Q. Did you see the prisoner at the bar on that day in Washington? A. I think I did.

Q. Where did you see him? A. I saw him on Pennsylvania avenue, just below the National Hotel. I was standing as he passed just in front of where Mr. Steer keeps the sewing-machine store.

Q. Which way was he going? A. From toward the Capitol.

Q. About what time of the day of the 14th was it? A. It was about half past two, as near as I can recollect—between two and half past two.

Q. Had you had a nodding acquaintance with him at all? A. I had; I knew him, and I suppose he knew me. There was no intimate acquaintance at all. I recognized him when I met him.

Q. As he passed did you recognize him, or he you?

(Question objected to by Mr. Bradley as leading.)

Q. As he passed, state what occurred. A. There was a recognition; whether it was by him or me first, I am unable to say.

Q. State whether it was by both. A. I could not state positively whether I nodded first or he did; we both nodded.

You notice that this witness, whose testimony I am reading, was living in the city of Washington, a man who knew the prisoner well, and who had known him for years and could not be mistaken in his identity in broad daylight.

Q. Will you state whether there was anything about his dress or equipments on that occasion which attracted your attention? A. There was.

Q. Will you tell the jury what it was? A. What attracted me more particularly was his dress rather than his face. I remarked his clothing very particularly.

Q. What was there about him that attracted your attention? A. The appearance of the suit he wore—very genteel; something like country manufactured goods, but got up in a very elegant style, the coat, vest, and pantaloons.

Q. Was there any reason why you noticed his clothes? If so, state it to the jury. A. I cannot say there was anything particular, except his appearance, so remarkably genteel. I was rather struck with his appearance.

Q. State whether he was on foot or on horseback. A. He was on foot.

Q. What were there on his feet?

(Question objected to by Mr. Bradley as leading. Objection overruled.)

A. I suppose he had boots or shoes. As he passed from me I turned and looked at his feet. He had on a new pair of brass spurs.

Q. Now describe these spurs. A. They were plain, common brass spurs; nothing very particular about them except the rowell.

Q. What was there about the rowell? A. The rowell was very large and very blue; they evidently were bran new.

You have heard testimony heretofore about these "bran new spurs" up there on the bed in Mrs. Surratt's house.

Mr. BRADLEY. In March?

Mr. PIERREPONT. Yes, in March. I should not suppose from March till April brass would be destroyed, or that brass spurs that were "bran new" would become old. I am not a hardware man, but I venture the prediction that they would not. I now turn to page 160 on the cross-examination of this witness :

Q. How long had you been in the habit of seeing him come in from the country? A. Fifteen years, as near as I can recollect.

Q. What was he doing? what was he engaged in? A. I have seen him here market days, I suppose, passing and repassing.

He was no stranger. I next come to the testimony of Vanderpool, page 241,

a lawyer from the city of New York, who was in the army, who came on here, first informing the district attorney of what he knew. The district attorney telegraphed him to come on, and he came, Vanderpool says, without any summons, to testify in this case. What object could he have? What reason could he have, unless he was impelled by the motive of furthering the ends of justice? Now, let us see what he says, and what his opportunities of knowledge were.

Q. Before you went to the war did you know J. Wilkes Booth? A. Yes, sir.

Q. How happened you to know him? A. He used to visit a club that I belonged to in the city of New York, next to Laura Keane's theatre.

Q. What was the club? A. The Lone Star Club.

You have heard something about that "Lone Star Club," I presume, of which Booth was a member, and of which this witness was a member. It was there he became acquainted with Booth, and there he knew him.

Q. Do you remember the day of the assassination? A. Very well, sir.

Q. Where were you? A. I was in the city of Washington.

Q. How many days before the assassination were you here? A. Three days before.

Q. How many days after? A. About two or three days after.

Q. Did you see John Wilkes Booth on the 14th of April? A. I did.

Q. Did you speak with him? A. Yes, sir.

He knew Booth well, belonged to the same club with him, saw him, and spoke with him.

Q. Did he know you well, and you him? A. Yes, sir—that is, he called me Major; that is the title he generally addressed me by.

Q. Did you see him more than once on that day? A. I saw him at least three times.

Q. Where did you first see him? A. It was just above Willards', on the sidewalk.

Q. Where did you next see him? A. The next place I saw him was between Eleventh and Twelfth, or between Tenth and Eleventh, on the left-hand side of Pennsylvania avenue, going from here to the White House.

Q. State whether you saw this prisoner on that day?

(The prisoner made to stand up.)

A. I did see him at this place I speak of on the avenue.

Q. Who did you see with him? A. With Wilkes Booth, and two or three others in the party.

Q. Tell the jury what they were doing. A. They were sitting around a round table with glasses on it. This is all I recollect now.

Q. Tell the jury the circumstances of your seeing him that day and what they were doing. A. I had been up to the Paymaster's department on some business relating to my accounts.

Now I call your attention to the evident frankness with which this witness is testifying. He states this fact of settling his accounts at the Paymaster's office on that day, of his being engaged here in business connected with the office which he held in the army, and in which he must have seen many persons. If it was not true, it was the easiest thing in the world to prove these things were false. He testified to a score of things in which he could have been contradicted if they were not true. He has not been contradicted in one single point, as I will prove to you.

In coming out, I came down the avenue on the opposite side from the place I have described, and hearing music, I went across to see what was going on at this place. As I went up stairs I think there was a woman dancing a sort of ballet dance. There was a stage or something of the kind in the back part of the room.

Now, gentlemen, will you note that this witness never pretended to state that there was any exhibition there, or any concert. It was but one single person who came out on the stage, a dancing woman.

Q. How was the room as to there being people in it? A. I should say there were 50 or 60 people there.

Q. Describe the table where Booth and Surratt sat. A. It was a round table, as near as I can remember, probably four or five feet across.

Q. What were they doing? A. Apparently talking.

Q. At what time in the day was it? A. It was in the afternoon.

Q. Was the room light? A. Yes, sir.

Q. Did you see them plainly? A. O, very plainly.

Q. Were you near them? I was about as far from them as I am from you at the present time, (twelve or fifteen feet.)

Q. Did you see them clearly? A. Yes, sir.

Q. Could there be any mistake? A. There is no mistake that I can see.

How will you get along with this? Was there any motive in this man to lie? Could he be mistaken, knowing Booth well, as he did, and seeing him there on this occasion, with this man? A bright, intelligent, active man, he could not be mistaken, and he is positive—entirely so.

I have something to say about the attempt that has been made to discredit Vanderpool. The attempt was made by doing what? By proving he was not at the place where he said he was? By proving that this business at the Paymaster General's office which he named did not occur? By showing that he was somewhere else than in this city? Not a bit of it. But witnesses were called to show that in Metropolitan Hall, on D street, there was no dancing going on; that there was no exhibition that afternoon. He never testified that there was any exhibition anywhere, except the exhibition of a single woman coming on the stage and dancing. He did not pretend to testify to anything on D street, or pretend to say where it was, except that it was along Tenth or Twelfth streets, on the left-hand side of the avenue going toward Willard's. They bring witnesses to prove something about a place on the north side of Pennsylvania avenue, and to show whether there were any such exhibitions going on there. Well, suppose there were not; very likely there were not. He did not undertake to state what the name of the place was; he did not know the name. They asked him if it was Metropolitan Hall or Washington Hall. He said it was something of the sort; he did not know the name. Now, let us see a little further what was stated about the place. They brought witnesses to prove that there was such a place on D street, and to show that there was no such exhibition going on there, and to show that no such exhibition was going on at a place on the north side of the avenue. We never said there was. But they were mighty careful to keep as clear as possible of Teutonia Hall, which was on the side of the street where he thought it was. They never called a witness from first to last to prove anything about Teutonia Hall; but it happened, in a cross-examination of their witness in relation to another hall on the north side, that I brought out these striking facts, which you will find on page 784.

Mr. PIERREPONT read from page 244 of the testimony of Vanderpool on this point, as follows:

Q. You think it was between Tenth and Eleventh, or Eleventh and Twelfth streets? A. Yes, sir; it was along there. I have not been there since to see.

Q. You do not know what the place was? A. I do not recollect. It was Metropolitan Hall, Washington Hall, or something of that sort. I could not swear positively to the name.

That was the original testimony of this witness. It was "along there." He knew it was that side of the avenue; the name he could not tell. I read it verbatim:

The court ruled that the witness might be inquired of as to any place in the immediate neighborhood of Tenth and Twelfth streets on the south side, as the witness was not definite in his testimony as to the place.

Q. Won't you tell us where Teutonia Hall is?

This is cross-examination. They knew where Teutonia Hall was.

A. It is on the south side of Pennsylvania avenue, between Ninth and Tenth streets.

That is where Vanderpool went.

Q. Were you in Teutonia Hall at any time along about the middle of April? A. I was sometimes.

Q. Tell us what kind of tables they had? A. I could not tell that. They had some round and some corner tables.

The counsel made a great parade of these tables in this Metropolitan Hall; the tables were square. But when you get the witness to Teutonia Hall the tables are round enough.

Q. Do you know whether they had dancing there? A. They had a rehearsal there.

Q. Won't you tell us what time of day they had the rehearsal?

Mr. BRADLEY. On the 14th of April?

WITNESS. I do not know when they had a rehearsal. Their rehearsal was before the exhibition: generally in the morning.

Now this came out of their own witness; and with it out, they have never called a witness from Teutonia Hall, never called a witness to show that this exhibition or this dance did not take place there. That was the hall where the prisoner was, and it is located just where the witness Vanderpool stated. They have been very shy about putting any witness on the stand in reference to Teutonia Hall; they bring them about some other halls we never spoke of, some halls on D street, or on the north side of Pennsylvania avenue, but they keep very clear of this hall.

I turn now to the testimony of Lee, page 195:

Q. Did you know John H. Surratt, the prisoner? A. I knew John H. Surratt by seeing him.

Q. Look at the prisoner and state if you recognize him? A. Yes, sir; I recognize that young man; but he did not have that "goatee" on when I saw him.

You notice that of these witnesses who saw him on that day, no one saw him with a goatee; every one had it off; all with a mustache, who speak on that subject at all. The barber was the first man who saw him; the barber says he gave him a "clean shave," with the exception of the mustache. You will not find, gentlemen, in this evidence any two things that do not come in harmony. The reason is that they are true, and all truth is in harmony.

Q. State if you saw him on the 14th of April, 1865; and if so, where you saw him, and about what time in the day. A. On the 14th of April. I was at that time with Major O'Beirne, the provost marshal of the District of Columbia. I went to the Washington depot with reference to men who were deserting. I was not looking for deserters myself, but was chief of the men employed for that purpose under Colonel O'Beirne.

Q. What force was that? A. The detective force of the Provost Marshal's department. I went down to the depot, and on my way back, at the corner of Sixth street, I stopped a minute to answer a question; the man who asked it I do not know, but he inquired about some young fellow who was in my regiment. When I left him I continued on up the avenue, the right-hand side going up towards Thirteenth street. When near Mr. Stinemetz's hat store I passed a man whom I took to be John H. Surratt. He was coming this way, and I was going in an opposite direction. It was between Franklin's spectacle store and Stinemetz's hat store.

Q. Are you satisfied the prisoner was that man? A. To the best of my knowledge that is the man. (Pointing to the prisoner.)

Q. Had you seen him frequently before? A. Not as frequently as I have seen some people about Washington.

Q. How often had you seen him? Did you know him well by sight? A. I should suppose I had seen him a dozen times before that.

Q. Was he walking rapidly or slowly at that time? A. He was going in an ordinary gait. I was going fast myself, walking quickly.

I now turn you to the testimony of Grillo, beginning on page 176:

Q. Did you know David Herold, one of those tried for conspiracy? A. Yes, sir.

Q. Did you know George Atzerodt? A. By sight.

And then he goes on to state about seeing him at the Kirkwood House.

A. As I was coming down Tenth street I met Herold, and he asked me if I had seen John Wilkes Booth. I told him I had; that I had seen him in the morning about 11 o'clock; that he had some letters which he had received; his letters used to come addressed to the theatre.

Q. Proceed and state what further occurred. A. I told him that I saw him a little after 4, on horseback; that he stopped in my place and got a drink.

Q. What kind of a horse was it that he rode? A. A small horse—gray, I believe, as far as my recollection serves me. Herold after this said to me, "Do you know that General Lee is in town?" I told him no, I did not; that I hadn't heard of it. He says "Yes; he is stopping at Willard's."

I suppose they expected he would be stopping there if they could succeed in throwing this government into confusion.

Q. This, I understand you, was the day of the assassination? A. Yes, sir; in the after-

noon. Says he, "Yes, he is stopping at Willard's; let's take a walk up there, and find out something about it." We started up, and as we got to the Kirkwood House we met Atzerodt sitting on the steps. He stopped to talk to him, and I walked ahead as far as the corner to wait for him. He stopped with him two or three minutes, and then came back, and walked with me up to Willard's. After we got inside of Willard's, Herold met two young men. They talked together awhile; I do not know what they said. As they were in the act of parting, Herold says: "You are going to-night, aint you?" One of the young men answered and said "Yes."

Q. In what tone of voice was the talk before that? A. In a low tone. They were apart to themselves.

Q. Was there anything more said that you could hear other than what you have repeated?

A. No, sir.

Q. What did this man who said he was going to-night do after saying "yes"? A. Nothing. We left him and went out toward Grover's theatre. I noticed Herold walking a little lame, and said to him, "What's the matter? you are walking lame." He replied, "Nothing; my boot hurts me." When we got behind the park there, he pulled up his pants to fix his boot. I then noticed that he had run down in his boot-leg a big dagger, the handle of which was four or five inches above the leg of the boot. I said to him, "What do you want to carry that for?" He answered, "I am going into the country to-night on horseback, and it will be handy there." I laughed at him, and said, "You aint going to kill anybody with that?" I then left him at the door of Geary's billiard saloon. I went up stairs and he walked ahead.

Q. Look about in this room, and see if you see anybody that looks like the man who said "yes" when Herold asked him if he was going to-night? A. Well, the gentleman, I believe, is that man, (pointing to the prisoner,) but I don't know. As far as my knowledge goes, he looks very much like him. He had no beard, whatever.

Q. Had he a mustache? A. A little mustache, as far as my knowledge goes.

You will find they all tell you the same thing; he had not any beard except on the upper lip, after Wood had taken care of him in the morning.

On page 178, the testimony is:

Q. You were in your restaurant? A. Yes, sir.

Q. Do you recollect Booth coming in there? A. Yes, sir; I was behind the bar at the time.

Q. Was anybody with him? A. No, sir; he came alone.

In which he confirms Sergeant Dye, as you will see, who tells you Booth went into this drinking place alone, just as this witness says he did:

Q. How long was that before you heard of the assassination? A. It must have been between eight or ten minutes, or fifteen minutes; I cannot remember exactly.

Q. Will you describe, if you recollect, what light there was in front of the theatre, and where it was placed that night? A. We had two lights out in the street; then there were two lamps in front of the theatre. The light is very brilliant there.

I now come to Coleman, page 521:

Q. Will you describe where you saw him, what he was doing, and what you saw? A. We were on Pennsylvania avenue, between Tenth and Eleventh streets, going toward Willard's. We looked around, and at first we noticed a very nice little horse, and a person was standing a few feet from him in the gutter. We stopped at first to look at the horse; then we noticed the rider, and I said to Mr. Cushing, "There is Booth, is he not?" I looked then again and saw that it was. We remarked the pallor of his countenance. There was a little conversation. He was sitting on his horse, with his face toward us, and was leaning over, talking very earnestly with a man who stood on the curbstone. This was about six o'clock in the evening. I recollect taking out my watch to look at it.

Q. What was the style of his conversation, as to earnestness or otherwise? A. He was bending very low; he was sitting with their two heads very nearly together. He appeared to be talking very earnestly.

Q. Did you notice anything in the expression of his face? A. Yes, sir; his face was very pale—as pale as if he had got up from a sick-bed.

Q. Were any remarks made upon that subject at that time? (Question objected to by Mr. Bradley.)

Q. You need not state what the remarks were. Simply state whether the fact excited conversation on the subject. A. His paleness was such as led us to remark upon it.

Q. Describe the man he was talking with. A. He was a man of ordinary size.

Q. Young or old? A. He appeared to be a young man.

Q. How dressed? A. He was dressed in a suit of gray clothes, with a low-crowned hat—a black felt hat—on.

Q. Have you ever seen that man since, before to-day, that you know of? A. No, sir.

Q. Have you seen anybody to-day that bears any resemblance to him? A. I would like

the prisoner to stand up and turn sideways. (Prisoner stood up and turned round.) He certainly looks like that man.

The next testimony to which I shall direct your attention is that of Peter Taltaval, on page 157:

Q. Were you in the restaurant at the time the murder was committed? A. I was.

Q. Did you know John Wilkes Booth? A. Yes, sir.

Q. Had you frequently seen him there or otherwise? A. He used to come in there very often.

Q. You knew him well by sight? A. Yes, sir.

Q. Did he come in that evening? A. He came in that night.

Q. What did he do? A. He walked up to the bar and called for some whiskey.

Q. What did you do? A. I gave it to him.

Q. State whether he was alone. A. He was.

Q. Did he drink it? A. Yes, sir.

Q. Then what did he do? A. He called for some water.

Again on page 158:

I saw him two or three days before with Herold.

Q. Where was that? A. In the same place; he came in there.

Q. State what occurred. A. I could not exactly say. I think they just came in—came to the bar and got a drink; probably had a little conversation together, and went out again. I could not particularly describe what passed there at all, not taking any particular notice.

Q. On the night of the murder did you see this same Herold come in? A. No, sir; I did not.

Q. On that night or the night previous did any one come in and inquire for Booth? A. No, sir; that was in the afternoon; in the afternoon of the same day Herold came in there and asked if I had seen John. I asked him what John. He said John Wilkes Booth. I told him I had not seen him.

Q. What then did he say; did he ask you anything, and if so, what? A. No; he simply came to the bar and inquired if John had been there. I asked him what John, and he said John Wilkes Booth.

Q. Did he ask you whether he had been there that day or evening? A. No, sir; he just shut the door and went right out.

Q. And between the time Herold came in and the time Booth came in, just before the assassination, you had not seen either? A. No, sir.

Q. At what time in the afternoon of the 14th was it that Herold came in? A. I should judge it must have been about 4 o'clock, as near as I can possibly think of it.

Q. At the time Booth came in and took a drink, just before the assassination, was there anything in his dress or appearance to awaken suspicion in your mind? A. No, sir; I did not take notice of anything unusual at all. He just came in there and asked for a drink.

Confirming what I am presently going to show you in another connection, I next come to the testimony of Susan Ann Jackson, page 162. Any one who has had experience in human testimony, or who has ever had much experience in courts of law, knows well that the witnesses to be relied upon as most truthful and most natural in their story are frequently witnesses of simple intellect, young children, girls, women, or simple men, who, when they try to tell the truth and only the truth, never have any difficulty at all, because it is easy to tell. I will defy the most skilful counsel that has ever opened his lips in any court to disturb the simplest child, the simplest woman, or the humblest man by any cross-examination, if that person is simply telling only what they know to be truth. You cannot disturb it; there is no power of doing it. It is only when falsehood comes in that trouble comes; where truth comes it is always easy, always consistent. Any one can tell it; simple people do tell it, and when they tell it they always adhere to it; no counsel can disturb it; that is the experience of every judge and every lawyer.

Q. Do you remember the Good Friday in April following the March when you went to Mrs. Surratt's? A. No, sir; I don't remember the very day I went there.

Q. Do you remember the Good Friday following that day, or any circumstance about that Good Friday in April? A. Yes, sir.

Q. Do you know whether Mrs. Surratt went away that day? A. Yes. She went down in the country on Good Friday, between 11 and 12 o'clock.

Q. In what did she go? A. She went in a buggy.

Q. Did you see the man who went with her? A. Mr. Weichmann.

Q. Did you see him? A. Yes, sir. He boarded there at the same time.

Q. You would know him now, if you were to see him? A. Yes, sir.

Q. Did you see Mr. Weichmann when he came back with Mrs. Surratt? A. Yes, sir; I saw him when he came back with Mrs. Surratt.

Q. About what time in the evening did Mrs. Surratt return? A. As near as I can recollect, it was between 8 and 9 o'clock.

You will remember she had been to Surrattsville, and got home about 9 o'clock p. m., as Weichmann tells us she did.

Q. After that, on that evening, will you tell us whether you saw the prisoner here?

WITNESS. That one sitting over there? (pointing to the prisoner.)

Mr. PIERREPONT. Yes.

A. Yes, sir; I have seen him in the dining-room.

Q. Who was with him? A. His mother was with him.

Q. What did his mother say to you? A. I do not know.

Q. Had you ever seen him before? A. No, sir; I had never seen him before.

Q. How long had you lived in the house? A. I had been there three weeks.

Q. What did his mother say? A. She told me that was her son.

Q. What else did she say to him or about him? A. She did not say anything else. When I was gathering up some clothes to put in the wash I asked if they were for Mr. Weichmann, and she said no, they were for her son.

This is one of those little truths that fall out in this natural way. You do not think she made it up, do you? You do not think the counsel told her to tell you that? That was not a thing that would ever have entered the head of a counsel or anybody. How happened she to tell you about these clothes? How happened it to drop out in the course of this conversation? It dropped just as truth always drops, naturally and truly. It is connected with another fact that I called your attention to yesterday. You remember that Holohan tells you the next week he himself went back to the house, and that on his bed were some clothes that had been washed and were then clean; that among them were some of Surratt's clothes; that he took some of them, put them in his pocket, and went away with them. No doubt that was so. They were the very clothes this colored woman took up on that Friday night, and which Mrs. Surratt said were her son's clothes, and they were.

Q. Did she say anything about who he looked like? A. She asked me did he not look like his sister Annie.

Q. What did you say to that? A. I said I did not know. I did not take good notice of him to see who he favored.

Do you think that colored woman made up this story?

Q. Who was it that asked you if he did not look like his sister Annie? A. Mrs. Surratt.

Q. Did you bring anything into the room you have spoken of where she was sitting with her son? A. I had just brought a pot of tea into the room.

Q. Who was in the room when you brought in the pot of tea? A. Not any one, except her son.

Q. Do you see any one now who she told you then was her son? A. Yes, sir. I am looking at him now.

Q. State whether that is the one. (The prisoner made to stand up.) A. That is the man, sir.

Q. After you took in the pot of tea what did you do? A. Just went out again.

Q. Did you return again? A. No, sir. I did not return in the room any more.

Q. Will you tell us, as near as you can, about what time in the evening you took in the pot of tea? A. As near as I can come at it, she came home between 8 and 9 o'clock. Well, when she came home and came to the dining-room, I carried in supper for Mr. Weichmann, the man who boarded there. After he went out she called me and asked me for a second plate, cup and saucer. I carried them to her.

Q. And then you found this man there? A. Yes, sir.

Q. Did you know his sister Annie? A. Yes, sir; she lived there.

Q. She was in the house? A. Yes, sir.

Now you saw that colored woman; you looked at her face; you heard her simple story; and when, through the ingenuity of counsel, the attempt was made to show that this took place at some other time—on the 3d of April—I read you evidence yesterday in order that you might see how utterly impossible it was that that could be. That was on Monday; it was not on Friday. The sun had rolled its course, and, as I once told you, stamped that day as it went down in the ink of night—Monday, not Friday. That is not all. The proof

is clear that he only came in there that night of the 3d of April, and went out before 7 o'clock; that he went down to the Metropolitan Hotel, took his supper there with his friend, and never returned until this night. There is no possibility of confusing these two things. The proofs all stamp this as a got-up story. I now read from the cross-examination of this witness:

Q. Were you ever examined as a witness about this matter before? A. Yes, sir; Mr. Orfutt examined me—or Captain Orfutt. I am not sure about the name.

She did not know the name. I believe there is no such name as that. There was a name having some resemblance in sound that we supposed it likely at the time she might have meant; but when we got Captain Smith upon the stand, he told you it was he who made the examination. I tried with all the ingenuity I could bring to get out, if I could in some way, the fact that he did make an examination which was reduced to writing, but I was not permitted to bring this proof, for Mr. Bradley, the associate counsel of Mr. Merrick, objected to my giving in evidence what she said that night to this Colonel Smith. I could not get it in, and it is not in. But she said something, and something they didn't want in and I did, and yet my learned friend made quite a speech the other day because this testimony, which they succeeded in getting ruled out, is not brought into the evidence.

Mr. BRADLEY said it was admitted that she was not examined by Colonel Smith that night. His examination was subsequent, and at a different place.

Mr. PIERREPONT. He examined her there, and made a written report which I wanted to put before this jury, and which the counsel succeeded in preventing me from doing, because they wanted to get rid of the effect of it. They knew it; they knew the power of it.

Mr. BRADLEY. No, we did not know what it was. We knew it was not evidence.

Mr. PIERREPONT. No! I wanted to advise you what it was; you did not know, and you were not willing the jury should know. I was willing the jury should know.

Q. Where were you examined? A. He carried me down to his office—I forget where it was—in the night.

Q. When was that? A. Monday night after the assassination happened.

Q. They took you down to a guard-house, or some place? A. They took me to the office.

Q. Do you recollect where it was? A. No, sir. I had never been there before. I do not recollect where it was. I think it was somewhere near the Treasury.

Q. Who took you there—do you remember? A. No, sir. I went in a hack.

Q. You were examined there? A. Yes, sir.

Q. Did they write down your examination? A. Yes, sir.

Q. You were not examined afterward? A. No, sir; not then, I was not.

Q. Were you at any time after this? A. Yes, sir; since then I have been down to what they call the War Department. In the course of last week, I think it was.

Q. How long after the assassination? A. It was just last week I was carried down to the War Department. Mr. Kelly carried me.

Q. And you were examined there? A. Yes, sir.

Q. Do you remember who examined you there? A. No, sir; I do not know the gentleman's name.

Q. Was what you stated then written down? A. Yes, sir; it was written down.

Q. When you were examined before General Augur, if that was the place, did you then make the same statement you do now? A. Yes, sir.

Q. You stated that Mrs. Surratt's son was there that night? A. Yes, sir.

Q. What became of him? A. I do not know, indeed; I did not see any more of him.

Q. You saw him about 9 or half past 9? A. It was between 8 and 9 when she came, after Mr. Weichmann, and she took tea; she called me to bring a pot of tea to this gentleman.

Q. Where was this gentleman then? A. I do not know.

Q. You had seen him before that? A. No, sir; I had never seen him until that night.

Q. And when you went into the parlor you found him sitting in the dining room, and Mrs. Surratt told you it was her son? A. Yes, sir.

Q. And this is the very same gentleman? A. Yes, sir; this is the very same gentleman who was in there with Mrs. Surratt.

This, you will recollect, is cross-examination, and you will see, as I said before, how impossible it is for a skilful counsel to disturb a truthful witness.

Q. And that you told to these gentlemen, and they wrote it down the Monday afterward?
A. Yes, sir.

Now, they brought that out themselves when she was examined and her examination written down by Colonel Smith.

Q. And you never saw him before then or since? A. No, sir; never before or since, until one day last week, when he was brought up here.

Q. And you are sure he is the very same man? A. He is the very same man she told me was her son.

Q. And the very same man you saw at her house? A. The very same man I saw the night after she came in from the country.

Q. The night of the assassination? A. Yes, sir; the same night.

Q. You say you had been living there three weeks. Was it just three weeks? A. Yes, sir; three weeks on Monday.

Q. Now, if you can go back a little, are you quite sure the gentleman you saw there, who she told you was her son, was not there on Monday, ten days before the assassination of the President? A. I never saw the gentleman she called her son until Friday night.

Q. You are sure it was Friday night? A. Yes, sir; it was the Friday night she came from the country.

These simple, striking facts fix themselves in this simple mind, and she could not be disturbed in her statement of them.

Q. And that was the night the President was assassinated? A. Yes, sir; it was the very night she came from the country. It was the Friday night before Easter Saturday.

Q. Do you not recollect the night the President was assassinated? A. It was Friday night.

Q. Was that the same night you saw this gentleman there? A. It was the very night I saw this gentleman there.

Q. You must have been there on the night of the 3d of April, the Monday night of the week before the President was assassinated? A. I was there a week in March.

Q. Did you not see him there on that Monday night, the week before the President was assassinated? A. No, sir, not as I know of; I did not see him there the week before. I saw him on Friday night.

I repeat, gentlemen, that no counsel could disturb that witness. Now, there are persons living in this city who know whether this is true or not, who were in the house that night, and who they have not put upon the stand.

I next come to the statement of Mr. Heaton, on page 500. Mr. Heaton was a clerk in the General Land Office. He was in front of the theatre before the assassination on that night.

Q. Do you remember when the President's carriage came to the theatre that night? A. Yes, sir.

Q. Did you recognize the carriage? A. Yes, sir; I saw the President and his wife and the party get out of it.

Q. I will ask you if, during that time, your attention was attracted to the crowd, either going in or coming out of the theatre, or coming from the restaurant in that vicinity, and if you saw any face that attracted your particular attention? A. I saw one face at the time that attracted my attention particularly.

Q. Go on and state what you did see. A. At the time the President's carriage drove up I saw a half a dozen or a dozen persons come round it from the restaurants in the vicinity. These were merely persons who came from curiosity to see the President. On last Tuesday week I came into court, and saw the prisoner for the first time. On looking at him I saw a very distinct resemblance between the face I saw that night and his own.

Q. State, if you please, where you saw the prisoner. A. In front of Ford's theatre, on the night of the 14th of April, 1865.

Q. About what time was that? A. Between a quarter of eight and a quarter past eight.

Q. Did you know any person in whose company he was at that time? A. No, sir.

No cross-examination.

You saw Mr. Heaton; you remember his face. I think you remember how he told you he happened to come into this room, and, looking upon the prisoner, it brought back the face he saw that night in front of the theatre. He was an honest man; he had an honest face; he was a clerk in the General Land Office. His name is Frank M. Heaton, and it is very easy to learn all about him. It would have been very easy to impeach him if he was not telling the truth. He lived right opposite the theatre. Has anybody breathed a word against him?

I next come to the testimony of Sergeant Dye, on page 12. Sergeant Dye was one of the early witnesses put upon the stand. We were told in the opening speech that Sergeant Dye was going to be impeached. He had told them where he lived, where he was born, and what his business was. Did you ever hear anybody come here to impeach Sergeant Dye? He testified here at least seven weeks ago. Has anybody been found to say a word against that soldier? Any record been brought against him of any kind? You heard in the talk here, in the motion made and in the statement made, that they were going to do something to Sergeant Dye; that they were going to make out he passed counterfeit money. Did they do any such thing as that? Did we try to prevent them from doing it? Was not that the inference they tried to leave upon you, that he did pass counterfeit money, knowing it to be counterfeit, and that he did commit some crime? Now, I do not believe that they failed to make an investigation upon the subject. I do not know. As diligent as they have been in their efforts, and as far as they have gone in their exertions to find everything they possibly could against our witnesses, they would have brought some man to have spoken against his character if they could, and they would have brought some testimony or some record to show that he had passed counterfeit money, knowing it to be counterfeit, if they could find any such thing. Now I do not know what the counsel know. I have not the capacity to see into their hearts; but when I learned from them that there was such a charge, I determined to find out what it meant, and if the learned counsel will tell me that he did not know that record, then I have nothing to say. If he does know it, he did the most cruel thing a man ever did. I have the record here, and while every exertion had been made beforehand, it turned out that the very man on whose statement the prosecution was commenced, signed an affidavit, on which the district attorney dismissed it at once, and here is the record under seal. Surely these gentlemen did not know that, or they would not have done it.

Mr. MERRICK remarked that of course they did not know it, for the suit had been dismissed since the matter was up on a former occasion.

Mr. PIERREPONT. Well, it strikes me they would have impeached him if they could. Could not they have brought some witness against him, or some record against him? This young man, in humble life, went into the army as a volunteer and as a private. He fought like a brave man, and rose from his humble position in Washington county, Pennsylvania, until he became a sergeant in the regular army of the United States, where he holds that honorable position now, having perilled his life in the defence of his country as a private soldier; having faced the cannon's mouth, with not a blot upon his name, and not a human lip to utter aught against him. Now, let us see what he says. He states that he was in front of Ford's theatre that night, sitting upon a plank. His regiment lay out at Camp Barry:

Q. As you sat there upon this plank, what was Sergeant Cooper doing? A. Sergeant Cooper was moving up and down the pavement.

Q. Did you have any conversation with him while you remained there? A. Yes, sir.

Q. While you were sitting there, state whether there was any change in the inside of the theatre as to persons coming out at the end of any act? A. They did.

Q. State what that was, and when. A. Parties came down—I presume it was about ten or fifteen minutes after we got there—and went into the saloon below and the saloon adjoining the theatre to drink.

Q. Were there quite a number of them? A. Yes, sir.

I now read from page 124:

The first who appeared on the scene was John Wilkes Booth himself. What first attracted my attention was his conversing with a low, villanous-looking person at the end of the passage.

Q. You mean by low, short in stature? A. Yes, sir. It was but a moment before another person joined them. This person was neat in appearance—neatly dressed—and entered in conversation. The rush came down from the theatre, and as they were coming

Booth said to this other person that he would come out now—as I supposed, referring to the President. They were then standing facing the place where the President would have to pass in order to reach his carriage, and watching eagerly for his appearance. He did not come. They then hurriedly had a conversation together; then one of them went out and examined the carriage, and Booth stepped into a restaurant. At this time all the party who had come down from the theatre had gone up. Booth remained there long enough to take a drink. I could not say whether he did or not. He came around and stood in the end of the passage from the street to the stage where the actors passed in. He appeared in a moment again. This third party, neatly dressed, immediately stepped up in front of the theatre and called the time.

Q. To have no misunderstanding, state what you mean by calling the time. A. He stepped up and looked at the clock, and called the time to the other two.

Q. That is, he stated what it was? A. Yes, sir.

Q. Where was the clock? A. The clock was in the vestibule of the theatre.

Q. State how the light was at the time relating to the face of the neatly dressed man who called the time. A. I did not observe it particularly at that time. As soon as he called the time to the other two, he went up the street toward H street. He did not remain there long, but came down again, stopped in front of the theatre, looked at the clock, and called the time again, looking directly at these two, and seemed excited.

Q. That is, Booth and the other man? A. Yes, sir. He then immediately turned his heel and went toward H street. It was then I thought something was wrong by the manner in which these three had been conducting themselves, and as a soldier I had a revolver in my pocket with my handkerchief wrapped around it.

Q. What part of it? A. Around the revolver. We wore artillery jackets, and the revolver was in my breast pocket. My suspicions were so aroused that I unwound my handkerchief from around my revolver. It was not long before he appeared again, going on a fast walk from the direction of H street.

Q. How did he look then? A. He placed himself in front of the theatre, where the light shone clear on his face. There was a picture on that countenance of great excitement, exceedingly nervous and very pale. He told them for the third time that it was ten minutes past ten o'clock. That was the last time he called it. It was ten minutes past ten o'clock.

There was a picture on that countenance of great excitement, exceedingly nervous and very pale. Well, it was not very strange, for they had just reached the hour when they were to perform this horrid deed.

Q. Did you see that man distinctly? A. I did.

Q. Very distinctly? A. I did, very distinctly.

Q. Do you see him now? A. I do.

Q. Can you tell us where he is? A. I can.

Q. Tell us where he is. A. He sits there, (pointing to the prisoner.)

Q. Is that the man? A. It is. I have seen his face often since while I have been sleeping—it was so exceedingly pale. He hurried up towards H street again, and that is the last I have seen of him until lately.

Q. You say he was the prisoner at the bar? A. Yes, sir; and I say that I have seen him since, while I have been sleeping.

Q. Did it make a very strong impression from what occurred at the time? A. It did, sir.

Q. What did Booth do then? A. He walked directly into the theatre.

Q. Did you call anybody's attention to this at the time? A. I did.

Q. Who? A. Sergeant Robert H. Cooper.

Q. Did you point out at the time who Booth was?

(Question objected to by Mr. Bradley and withdrawn.)

Q. Where did Booth then go? A. He entered the front of the theatre.

Q. Where did you go, and who went with you? A. Sergeant Cooper and myself went to an oyster saloon. Sergeant Cooper was particularly with me.

Q. How soon after you got into the oyster saloon did you hear of the murder? A. We had not time to eat our oysters.

Q. What did you do when you heard of it? A. We did not go to the theatre. We hurried right up H street to the camp. I thought a detail would have to be made, and as I was first sergeant I would have to be there.

Q. Did Sergeant Cooper belong to the same camp? A. He did.

Q. Did you both go up H street? A. Yes, sir; we both went up to H street, and out H street.

Q. When you got out to H street what did you do? A. We passed out to Camp Barry.

Q. What occurred on the way? A. A lady hoisted the window of her parlor and asked us what was wrong down town.

How happened this lady at that time, before there had been the least alarm, to ask what was going wrong down town? When Webster murdered Dr. Parkman, they told him they had found the body; and said he, "Did they find it all?" What was going wrong down town?

Q. What did you say, and what did she reply? A. I told her that President Lincoln was shot. She asked me who did it. I told her Booth. She asked me how I knew it. I told her a man saw him who knew him.

Q. Will you tell us what was the condition of the moon at that time? A. I cannot say exactly. I disremember.

Q. Do you know whether it was full or different at the time? A. It was light enough for us to see some distance on the street.

Q. Do you know whether the moon was up? A. Yes, sir; I believe it was.

Q. Do you know whether the moon was then at or about the full? A. I cannot say.

Mr. BRADLEY here interposed an objection to the course of examination being pursued. The witness had answered that he did not recollect what the condition of the moon was, and he did not think it altogether proper to pursue this line of examination further with leading questions.

Mr. PIERREPONT. Very well, sir; I will not press the examination further. The alumnac will show what the condition of the moon was on that night.

Q. Please describe this woman who opened the window, and with whom you had this conversation. A. She appeared to be an elderly lady.

Q. How was she as to being stout or otherwise? A. I could not say particularly. She resembled the lady on the trial of the conspirators—Mrs. Surratt.

Q. Have you seen the house since? A. I have.

Q. Do you remember the number? A. I do—541.

Q. Tell the jury which side of the street it is on as you go up. A. As you go toward the camp—an easterly direction—it is on the right-hand side.

Q. Is there anything peculiar about the house? A. Yes, sir; I recollect the steps distinctly as they appeared that night.

Q. Tell the jury how the steps are. A. In order to answer her question I had to go up in the direction of the steps, which are very tall.

Q. Will you state what was the manner of this woman when she thus addressed you? A. She just asked the question.

Q. State whether her manner was excited or not. A. I do not recollect.

Q. What then did you do? A. Passed on toward the camp.

Q. Did you pass swiftly or slowly? A. Passed along on a fast walk.

Q. At the time she opened the window, state whether anybody was ahead of you in the street. A. There was not. We met two policemen a short distance beyond that, who had not even heard of the assassination. What I mean by this is, that no pedestrians had passed that way.

They were the first, as appears afterward in the testimony of Cooper, to give the information to these policemen.

I now come to the testimony of Sergeant Cooper, who was with Dye at this time. I read from page 184. You will remember Sergeant Dye stated that while he sat upon that plank Sergeant Cooper was walking up and down the pavement. Sergeant Cooper says:

I was walking up and down the street. I walked up to the corner of F street once, crossed over to the other side of Tenth street, and walked down the other side.

Q. Did you cross back again on the same side the theatre was? A. Yes, sir; I went across right in front of the theatre.

Q. State whether you spoke to anybody; and if so, to whom? A. I do not remember correctly. Sergeant Dye was sitting there, and he and I may have had some conversation. We had conversations at different times.

Q. While you were walking about? A. Yes, sir, we did. When I came to where he was sitting I sometimes spoke to him.

Q. Did you speak to any other person that you remember? I do not remember that I did.

Q. You spoke of the President's carriage standing by the platform? A. Yes, sir; we observed that when we went there.

Q. Did you see anybody about the carriage; and if so, who did you see? A. The driver sat on the carriage, and while we remained there a gentleman approached the carriage to the rear, and looked in at the rear of the carriage.

In the same way that Sergeant Dye had spoken of it before.

Q. Tell what kind of a man he was; I speak of age, height, dress, and appearance. A. He was a young man, very genteelly dressed; that was all I noticed about him. I did not observe him particularly.

Q. As to height, what would you say? A. I presume he was about five feet eight or ten inches.

Q. Compared with yourself, what was his height, without going into feet and inches? A. I think probably he was about the same height I am, as nearly as I can recollect.

Q. Did you see any other man standing there near the wall? A. I observed a rough-looking man standing near the wall of the theatre.

Q. Tell about his height. A. I would say, to the best of my recollection, that he was not as tall as the other gentleman, who looked into the rear of the carriage.

Q. Did you see anybody go into the drinking room by the side of the theatre? A. Yes; I saw a gentleman go into the drinking saloon below the theatre.

Q. Who was he; did you know him? I did not know the gentleman; he was pointed out.

Mr. BRADLEY. That is not evidence.

Mr. PIERREPONT proposed to show that this man was pointed out to witness as John Wilkes Booth.

Objection sustained.

Q. I will ask you if the same person who was pointed out to you went into the drinking saloon? A. Yes, sir; I observed him go into the drinking saloon.

Q. Was he pointed out to you, and his name given? A. Yes, sir.

Q. Did you see him come out? A. Yes, sir.

Q. After this man came out from the saloon what did he do? A. I did not observe him after he came out from the saloon.

Q. Before that, did you hear any one call the time; and if so, what did you hear the last time you heard it? A. The last time I heard it called was ten minutes past ten. It was after this gentleman came out of the saloon.

Q. Did you hear the time called before that? A. I cannot recollect distinctly whether I did or not. I have a faint recollection that I did, but I am not certain.

Q. Were you so situated at the time you heard the time called, ten minutes past ten, that you could see the face of the man who called it? A. No, sir; I was not.

Q. What did you and Sergeant Dye then do? State what occurred. A. We started round a corner, and went to a saloon to get some oysters.

Q. Did anything occur exciting your suspicion at this time? A. I do not know that I could say that there was anything particular that excited my suspicion.

Q. As you were going down H street to camp, on which side of the street did you go? A. We went down the right-hand side to somewhere about the printing office.

Q. What occurred, if anything, on your way down? A. As we were going down H street there was a lady raised a window, put her head out, and asked us what was going on down town, or something to that effect.

Confirming essentially all that Sergeant Dye said. Sergeant Cooper was walking up and down, and did not see all that Dye saw. Now, I have one word to remark in this connection; that wherever you find witnesses not situated exactly alike, in reference to seeing or hearing what transpires, place them upon the stand, and if each tells precisely the same story the other tells, that he saw precisely the same things and heard the same words, and there is anything complicated about it, you may be entirely sure that story is made up. No two men see alike, no two men hear and remember the same words alike. They may see one specific thing or hear one single sentence; but when you place two men, one sitting and the other walking about, their faces turned in a different way, and their attention differently directed, and you find the two telling a complicated story exactly alike, the story is made up. The truth of it is apparent from the fact that one tells what he heard and saw, and the other tells what he heard and saw. They do not both see precisely the same thing or hear precisely the same words. It is just as I explained to you, when you find a signature that will exactly fit your own, will exactly cover it in distance, size and space, it is a forgery, not real. Here are these men, with little differences in their statements; but their story is substantially one.

Now, gentlemen, we have reached this point before the theatre by three men. Booth is seen before the theatre by three men, and Surratt is seen, two recognizing him positively, the other giving a description of him. He did not say positively. Dye was so situated that he could not be mistaken. Cooper saw him and described him as he went up to the carriage—both going up H street at the same hour, and the same thing occurring. Booth goes into the drinking place and takes his drink, and when the last time is called, stealthily goes into the theatre, passes into the box of the President, lifts his impious hand and kills that man, who is there trying to divert himself from the burdens and toils which were pressing him by some little diversion with his wife and friends. It was the time, if you remember, after Lee's army had surrendered, and it was the very day when he had been with General Grant; and if General Grant is in the

room he will remember it, for he told me of it himself; it was on the very day he was in the cabinet with General Grant, devising what means of leniency, what easy modes, could be brought about to restore peace to this bleeding country. All remarked how gentle, how kind, how lenient was his policy on that fatal day, well remembered by the general-in-chief, and well remembered by all his assembled cabinet who were there with him. He indulged in no pleasures, he had no amusements, but, occasionally relieving himself from his toils, went to the theatre that he might be diverted. His other and sole diversions, as is well known, were to go to the hospitals, to the sick soldiers, and cheer them up, to soothe them in their sorrows, and be by the side of their dying-beds, as he frequently was. And here this occasion was selected, by the side of his wife and by the side of his friends, that he should, by the assassin's hand, be stricken down and die. The counsel ask, have we not had blood enough; isn't it all right? They ask this jury of twelve men of the city of Washington to say it's all right; there is no guilt about it—those who were engaged in the plot and those who perpetrated it; it is all right. It is right if they are not guilty. When they call upon you to say a man is not guilty, who was one of the plotters, they call upon you to say it is all right. They would not be willing to put it in that form, but this is the real form in which you cannot escape its being put. The form is, gentlemen, do you say the plotters in that great crime are innocent? If they are innocent, then they are right. Will you tell this community, your wives, your neighbors, your clergymen, your own souls, that this is right? It is right if there is no guilt. The whistle, the signal, sounds when Booth goes in; the time is called; the man hastens up H street; Payne mounts his horse at this given signal, and goes to the house of Secretary Seward, goes there, and that murderous, that awful scene ensues in the presence of his daughter, by the side of his wife, the sick and almost dying man, mangled and cut to pieces in this brutal way, with those trying to protect him stricken down, his own son's life almost destroyed, almost by a miracle saved; his daughter from the shock goes to her grave, and his wife in a few weeks from that hour dies. Have we not had blood enough? Have not we had murder and assassination enough? Is it not time that a jury of twelve men shall say there has been enough, and we will stop it? No jury has said a word upon this subject yet. No twelve men have taken up the question and passed upon it. The civilized world have passed their verdict upon it, and it is a verdict of condemnation; 13,000 rebel prisoners at Point Lookout passed their verdict—have writ the severest condemnation upon it that words can express. The entire governments of the civilized world have expressed their condemnation of it; they said there had been blood enough. The Turk, the infidel, the Chinese, the Japanese, the Greek, the Arab, the Protestant, the Catholic—from sea to sea, from pole to pole, over this whole wide world send their letters of condolence and their resolutions of condemnation of this terrible crime. Yet the counsel tells you this is not different from the commonest murder of the lowest vagabond in the streets. That is not the verdict of Christendom; that is not the verdict of brave men who were rebels; it is not the verdict of those 13,000 rebel prisoners; it is not the verdict of humanity; it is not the verdict of man.

Now what happened? This deed is done; Herold and Booth flee. Flee where? Flee forthwith to the house of the mother of this prisoner to get arms, get the field-glass, get the ammunition, get the whiskey, which on that day she had ordered to be prepared; the arms which her own son a few weeks before had secreted, which he in connection with Herold had brought from 'T B there and hid them; had told his mother; and Booth and Herold called upon Lloyd, "for God's sake make haste and get those things." With them they escaped; with them they were taken; the things are brought here as living witnesses to testify with their dumb mouths against this awful crime.

Now, gentlemen, who did the deed? You notice, from the testimony here

given, that the first idea of all was that John Surratt was the one who had assassinated Mr. Seward. It turned out it was another man who had assassinated Mr. Seward, the very man who it had been arranged before should kill Lincoln. It was this bloody Payne. It was he who did the deed, and what became of him? He wandered about in these streets, and knew not where to go, or how to flee. His horse was found, but he was not found. Distracted, almost, as it were, and like a wandering damned spirit, he returned to the very house where the plot had been formed, and there enters on that Monday night; and he says, as he came there, he came at Mrs. Surratt's call to do her bidding in a menial labor. He had done her bidding in other things, or he had done that which he had plotted in other things, and he returned to that same house where he was arrested; and there, when she arose from her knees, she came out, lifted her hands, and said before God she never knew that man. And when she passed out by Colonel Morgan, in a confidential whisper said to him, "I am so glad you officers of the government have come here to protect us, for that man with a pickaxe came here to kill us."

Well, we have had blood enough. No jury yet has ever passed on one of these crimes; you are going to do it now. The world looks on, your own friends look on, your God looks on. It is for you to try; it is not for me.

I come now to the flight. I turn to page 498; to the testimony of Charles Ramsdell, from Boston, Massachusetts, belonging to Co. D, 3d Massachusetts artillery. He was on his way, with Staples, another soldier, to Fort Bunker Hill, and had proceeded a short distance from this city, in the early dawn on the morning of the 15th, after this murder:

Q. Tell the jury how you went—whether on foot or horseback? A. On foot.

Q. What was Staples? Was he in your company? A. He was a private in my company.

Q. About what time did you leave Washington? A. I could not tell exactly what time—between four and five.

Q. Will you tell the jury, after you got out on the Bladensburg road, what you saw that attracted your attention? A. I saw a horse hitched to an opening in the fence, about two miles from here.

Atzerodt was afterwards found to have left here on foot, not taking away his horse. You will find this horse answers the description of the horse Atzerodt rode, and which he probably took and tied at this place to aid in the escape.

Q. Describe that horse. A. It was a dark bay horse.

Q. Describe his forehead. A. I think he had a star on the forehead, if I recollect right.

Q. What of his feet? A. I do not recollect exactly, but I think he had one white foot.

Q. What had he on him? A. Trappings; a citizen's saddle, and a piece of woollen blanket under it.

Q. What kind of a blanket was it? A. Soldier's blanket, I think it was.

Q. Was he saddled and bridled? A. I think he was.

Q. How near the house was it where he was tied? A. It may be a hundred yards from it.

Q. Did he excite any remark? A. No, sir; not at the time.

Q. You observed him? A. I did.

Q. Soon after you passed this horse tell the jury what occurred. A. About fifteen minutes after I passed this horse a man rode up to me on this same horse and asked me if there would be any trouble in getting through the pickets, or something of that kind.

Q. What did you tell him? A. I do not recollect what I told him exactly, but I think I told him I thought there would be, or something to that effect. I asked him if he had heard the news of the assassination of the President.

Q. What did he say? A. He did not make any answer, but gave a sneering laugh.

Q. What did he do? A. He looked back and on both sides.

Q. In what manner? A. He appeared to be very uneasy, fidgety, and nervous.

He looked just that way when he got on the steamer Peruvian, and even in mid-ocean when on his way to England he looked that same way. He thought everybody he saw was a detective coming to take him—"nervous" and "uneasy." It began after the bloody deed. After that the nerves of no man get steady again—never, never, never.

Q. Could you discover anything that arrested his attention? A. There was a man coming from the city, an orderly, I think, carrying despatches to Fort Bunker Hill. As soon as he saw him coming he rode away.

Q. What did he say when he saw this man coming? A. He said he thought he would try it, and rode away.

Q. Try what? A. Try the pickets.

Q. How did he ride? A. The horse went at a pretty fast gait.

(The prisoner was here requested to stand up in such a position that the witness might see his back.)

Q. Did you ever see that man (pointing to the prisoner) before? A. I think I have seen that back before.

Q. Did you see it on that horse? A. I think I did.

No cross-examination.

You remember the appearance of the witness. He was not cross-examined; I suppose for the same reason that the ferryman was not. They thought the more he was cross-examined the more likely it would be to be made stronger.

Now let us see what happened in the order of time. You had it in evidence before you that these railroads were stopped; that they did not go on as usual. Where did this man go, and when did this man see him? This horse has never been found—the only one of all these horses that has not been found and identified. Other horses were found and brought to General Angur's headquarters. You recollect the condition one of them was in, with the sweat standing in puddles under him. This horse was never found; where he is I do not know, and I do not know that anybody knows. But the man who rode him has been found. And where did he go to? The next place we find him is on the boat going from Whitehall to Burlington, Vermont, on the night of Monday following the assassination—the first trip the boat made that season. He gets to the depot at Burlington; a short man is with him, who does not talk. This man talks "Canuck," as you will find from the evidence I shall read. They are too late for the train. They ask permission to sleep in the depot. They lie down until four o'clock, when they are called, take the train, hurry off; they are gone. Blinn, who kept the depot, picks up where the tall man lay a handkerchief, and on that handkerchief was written the fatal name "John H. Surratt." He picked it up that morning. There is no doubt about that fact, much as they tried to make it appear differently. The next we find of him is on the railway. Hobart finds two men standing on the platform, who professed to have no money. The tall one does the talking; the other one says nothing. They pretended they had been laborers in New York, and had not any money. You can easily see why he wanted to appear as a laborer. The witness tells you he undertook to talk like a "Canuck," as they call it in Canada; but when he grew earnest in urging him to allow him to remain, he forgot the "Canuck," and passed into good Yankee English. Let us see what he says about it. I read from page 174, and from the testimony of Blinn:

Q. Do you remember when the first passenger boat of that season landed its passengers at Burlington that season? A. The first trip made by the boat that season was the 17th of April.

Q. What day of the week? A. Monday.

Q. Can you tell whether it arrived in time for the passengers to take the train? A. It was four hours late.

Q. At what time did it arrive? A. About twelve o'clock in the night.

Q. Were you on the watch that night in the depot? A. Yes, sir.

Q. Did you see two men in that depot? If so, tell us about them. A. There were two men came in from the boat; one was a tall man, and the other shorter. They requested permission to sleep in the depot until the train left for Montreal.

Q. At what time did the train leave? A. The train left at 4.20 the next morning.

Q. Where did that boat come from? A. It came from White Hall, and connects with the cars from New York city. It runs from White Hall to Rouse's Point, on the lake.

Q. State what arrangement, if any, was made between you and them about sleeping there. A. They requested permission to sleep on the benches in the depot.

Q. Which one made the request? A. The taller gentleman; he did all the talking.

Q. What did he say? A. He wished to know if he could sleep there. People very often come along in that way, when the cars from the Rutland road were late.

Q. I am merely asking what he said? A. He wished to know if he could sleep there. I asked him if he did not wish to go to a hotel. He said he thought not; he was going to Montreal on the early train, and would like to sleep there in the depot.

Q. Did you call him? A. Yes, sir; in time for the train.

Q. At what time did you call him? A. I should think four o'clock.

Q. In the morning? A. Yes, sir.

Q. That was on Tuesday? A. Yes, sir; that was on Tuesday morning, the 18th.

Q. After he went out did you see anything where he had been lying? A. I did not.

Q. Any article? A. I did not, until daylight.

Q. Did you at daylight? A. Yes, sir.

Q. Have you it here? A. I have, or something that resembles it very much.

Q. Just look at it and state if you recognize it as the same. A. (After examining it.) I do recognize it as the same handkerchief.

Q. Where, in relation to where the tall man slept, was that? A. That was near the seat, on the floor, where his head lay.

(The handkerchief was here shown to the jury.)

Q. Is there any name on it? A. Yes, sir; "J. H. Surratt, 2."

Now, here were two men, one tall and slender, and Blinn tells you that under the head of the tall one, where he lay, he found this handkerchief, marked "John H. Surratt." Let me trace them and see where the two men, the tall one and the shorter, were next found. But first, I ask you to remember what day this was, and to notice that it was while Holohan was still in Washington, and before that handkerchief, with the name of "John H. Surratt" on it, which had been washed by Susan Jackson, and laid out to wash on that Friday night, had passed into the hands of Holohan at all.

I come now to the testimony of Hobart, page 169 :

Q. Between the 10th day of April, 1865, and the 20th day of April, 1865, state whether you were the conductor on this same road? A. I was, and have continued to be ever since.

Q. Do you remember about what time in April, 1865, the first boat came up the lake that left passengers at Burlington? A. I got the passengers from the first trip up the lake by the boat on Tuesday morning, in April.

No chance for any mistake here.

Q. Have you any memorandum of what kind of a night it was prior to this morning that you took these passengers; I mean as to whether it was stormy or otherwise? A. I think it was a clear night, but I am not sure.

Q. At what time in the morning or night was it that your train started? A. I started from White River Junction at 11.55 at night; I cannot say whether we were then on time or not, but that was the time of starting.

Q. Where did you go? A. Directly to St. Albans.

(The prisoner was here requested to stand up, that the witness might see him. He did so.)

Q. Will you tell the jury what occurred on the train that night that was peculiar? A. I arrived at Essex Junction at 5 o'clock in the morning—Tuesday morning. I left Essex Junction with the passengers from Burlington and the boat on Lake Champlain. As I went through the train, I found between the passenger car and the sleeping car two men standing on the platform; they were on the platform of the passenger car, one on each side of the door. I spoke to these men, and asked them for their tickets. They said they had none, and that they had no money; that they had been unfortunate.

You can easily see why, if they both were criminals in flight, they should want to conceal themselves as laborers, just as Payne, when he came to Mrs. Surratt's, undertook to conceal himself as a laborer. They could get along without being stopped so often until they got out of our jurisdiction.

Q. Please describe these men. A. One of them was tall; he was about my height as he stood up in the car; he was rather slim; had on a scull-cap—one of those close-fitting caps—and a short coat. His vest was opened down low, and his scarf came over under his collar and stuck in his vest.

I will call your attention presently to the statement of St. Marie, of what the prisoner told him in Rome, in walking with him on that afternoon, as to how he made his escape from Washington, and what disguise he had.

The other man was a short, thick-set man, of sandy complexion, with whiskers around his face, and had a slouch hat on.

Q. Of what color were his whiskers? A. Sandy, I think.

Q. Was he a rough or a genteel-looking man? A. He was a rough-looking man.

Q. How was he dressed? A. I cannot state about his dress.

Q. With whom was the conversation? A. With the tall man.

Q. State what the conversation was. A. I told him to come into the car, and put my hand on his shoulder. He came in. He said that three of them had been to New York; they were Canadians, but had been at work in New York; that they had received some

money two nights before—I won't be positive about the time—and that a third party who had been with them got up in the night, took all the money they had, and left; that he had left them without anything—in a destitute condition.

Q. What were they trying to do, did he say? A. He said they must go to Canada; that they wanted to get home; that their friends lived in Canada, and that when they got home they would get plenty of money, and would remit the amount of fare to me.

Q. What further? A. I told them that I could not carry them. I spoke to them of the necessity of having money if they were going to travel, and that I could not carry them through free. They expressed themselves as very anxious to get through. I told them that I should leave them at the next station—Milton—between Essex Junction and St. Albans. I was busy when I got there with the train, and so forgot them. I went through the train again after leaving Milton, and found them in the rear end of the car. I tried them again to see if they had not some money. They said they had none, but that they must go to St. Albans; that when they got there they could foot it. They inquired of me how far it was to Franklin; that they were going through the country. I asked them how they were going to get there? They said they were going afoot.

Q. State where Franklin is. A. Franklin lies northwest of St. Albans fourteen miles; I think the distance is about four miles from the line—the Canada line.

You see that Franklin is up there near the Canada line, and, as we shall show by their arrival at the hotel, they probably went there by Franklin. They did not go by train, for they did not get there until some time later than the train arrived.

Q. When you asked them how they were going to get to Franklin, what did they say? A. They said that they would have to go afoot; they had no money to pay their fare on the stage; that if I would carry them to St. Albans they would try and get home, or where their friends were.

Q. Who did this talking? A. The tall man.

Q. In the progress of this talk, or in the beginning of it, state what there was, if anything, peculiar about their dialect? A. This tall man tried to use broken English, as if he were a Canuck, but occasionally he would get a little in earnest for fear he would be put off, and then he would drop the Canuck and speak good square English.

Q. What did you discover as to his square English finally? A. That was what aroused my suspicions that things were not all right; that they were travelling *incog.*, and I urged the matter more than I would if they had been really poor people and I had had a strong proof of that fact.

The court here took a recess for half an hour.

On reassembling, Mr. PIERREPONT said: I was speaking to you, gentlemen, when the court took a recess, about the flight of the prisoner. I read to you Mr. Hobart's testimony, in which he stated that the train on which he saw Surratt was due and did arrive at Montreal at 9.45. The prisoner, you will remember, inquired of Hobart the way to Franklin, which was close to the Canada line, and remarked that he was going across the country. From the fact which I am about to state, it is more than probable that he did take the route he said he would. This register which I have here, and in which his name is entered, shows him to have reached Montreal at 12.30, whereas if he had taken the regular train from St. Albans he ought to have arrived there at 9.45.

You will likewise see, from this same register, that he reached this hotel in Montreal at 10.30 on the 6th day of April, 1865. Did he reach Montreal at 10.30 in the morning? This is one of those pieces of evidence which come in, as evidence will always come in when it is true, to set at naught and scatter to the winds all these wild theories of my learned adversaries regarding "physical impossibilities." The prisoner being here on the 3d day of April, 1865, leaves here the next day, and arrives at Montreal at 10.30 on the morning of the 6th, by the concessions of everybody. Now, the question arises whether he cannot get from Montreal to Washington just as quick as he can go from Washington to Montreal. My friends, "physical impossibility" has again, in this instance, disappeared.

First find out whether a thing is true or not, and if it be true you can always find out some way to get at it. If it is true that a man was here in Washington at a given time, and it is true that he was in Montreal at another time, you may be entirely sure that somehow or other he got from one place to the other

place. Whether he went by a special train, express train on schedule time, or on a freight train, is not a matter of any consequence. The question is, What is the truth about it? Was the man here? Yes, that is conceded. Was he in Montreal? Yes, that is conceded. Well, then, he got there somehow or other. It is not worth while for us to puzzle our brains very much to know how he did it, nor to be disturbed by anybody getting up and talking about physical impossibilities.

We find no trouble now about the physical impossibility of Surratt being here and then getting up to Montreal on the 6th; and, if that be so, then surely there would be no physical impossibility in his getting back just as swiftly as he went.

You will remember that Mr. Conger and a gentleman by the name of Sawles saw the prisoner in St. Albans on the morning he got there. You will remember his inquiries of Hobart and about Franklin. You will remember that Hobart told him that if he continued on the train he would reach Montreal at 9.45, and you will also remember that he did not reach there until after 12 o'clock, for the reason, no doubt, that he went by way of Franklin, having got alarmed in St. Albans on hearing some person say that John Surratt must be somewhere near there, as his handkerchief had been found at Burlington.

You will remember that he says he concluded, on hearing that, that it was time for him to make himself scarce. You will bear in mind that when he told St. Marie, in Rome, that he had escaped from Washington on the morning after the murder in the disguise of an Englishman, that that same disguise was worn when Hobart saw him on the train at the time he pretended to be a Canadian or a Canuck. The same disguise was on him when he was in St. Albans, and had on the English courier's bag, which perhaps you have seen. I have seen many of them in England, and many of them on the continent. On hearing this conversation about the handkerchief, he left St. Albans. The next we hear of him is on his way to Montreal, which place he reached at 12.30, according to the register of this hotel. Let us see what he did after he got there. I read from the testimony of John Sangster, bookkeeper of the St. Lawrence Hotel:

Q. Now turn to the 18th, when he arrived again, and tell us how many hours or minutes he staid on the 18th. A. He did not stay any time in the hotel; I do not know how long; he just came into the house.

Q. Do you know where he went? A. I do not know the exact place; he went somewhere and was secreted in the city, I believe.

Q. He left the hotel instantly, did he? A. He left it instantly.

This was on the 18th. Why did he leave the hotel instantly? I will tell you why. He had been in St. Albans, and learned there that his handkerchief had been found at Burlington, and that he was suspected of being somewhere on that route. He therefore concluded it was about time for him to make himself scarce. He therefore, as I have shown, leaves St. Albans, and starts for Montreal across the country, instead of going by the regular train. He gets to Montreal, enters his name on the register of the hotel, and leaves there instantly. He is then secreted somewhere in the city. He afterwards tells where. He was at first secreted at Porterfield's house; then at La Pierre's, and afterward at Boucher's. Why was he secreted? He had not done anything wrong. He had committed no crime. He had had nothing to do with the assassination of the President, for he had been in Elmira all the while. Now, gentlemen, let us see how this is presently. If he was in Elmira on the 14th then he could not have been in Washington, and these thirteen witnesses who swear to having seen him at different hours during the day, and narrate minute circumstances, such as shaving him, holding conversations with him, &c., are all mistaken. He was not here—of course not; but was in Elmira. That ferryman who brought him across the river; the other man, who talked with him when he came to make certain inquiries of him, are all mistaken. He was in Elmira. Well, won't the gentlemen please tell us where he went when he got to Elmira?

Won't they tell us how he got on that boat? Won't they tell us why he went in disguise? Why he hastened to that hotel, and left it so suddenly? Why he went across the country from St. Albans, instead of going on the regular train? Why he was secreted in the city of Montreal? He had done nothing wrong. Why was he flying? What is the matter? Well, men used to do that before, when similarly situated. They begin early. Here is a little bit of its history:

And the Lord said unto Cain, Where is Abel, thy brother? And he said, I know not. Am I my brother's keeper?

And he said, What hast thou done? The voice of thy brother's blood crieth unto me from the ground.

And now art thou cursed from the earth which hath opened her mouth to receive thy brother's blood from thy hand!

When thou tillest the ground it shall not henceforth yield unto thee her strength; a fugitive and a vagabond shalt thou be in the earth.

That was the curse pronounced by the Almighty upon murder, that the man should be a fugitive upon the earth.

And so it was with the prisoner. He fled to the uttermost parts of the earth, but found he was safe nowhere. In Egypt his final capture took place, and from thence he was brought back to the city of his great crime.

That there may be no mistake on this subject, I read from St. Marie's evidence, page 612:

Q. What road did you go? A. Outside the city of Velletri, on what is called the road to Naples.

Q. Did you talk to the prisoner? A. Yes, sir. I was occasionally speaking with him in English, and occasionally to the two others in French.

Q. Did the prisoner tell you at this time anything about his disguises? if so, what? A. Yes, sir. I asked the prisoner how he got out of Washington; if he had a hard time in escaping. He told me he had a very hard time.

Q. How did he say he got out from Washington? A. He told me he left that night.

Q. What night? A. The night of the assassination, or the next morning, I am not positive.

Q. What was the disguise, if any, he told you he had? A. He told me he was so disguised that nobody could take him for an American; that he looked like an Englishman; that he had a scarf over his shoulders. He did not mention any other disguise that I remember.

You have heard the witnesses tell you about that scarf, and about his cap, and you will hear presently who it was told you about his courier's bag which he had. Thus did he escape. You will remember how he attempted to impose his broken English—his Canuck dialect—upon Hobart, when he was trying to make him believe that he was a laborer. In this connection, gentlemen, I will call your attention to two remarkable coincidences. We have learned that truth is always stranger than fiction. One of these is this: If you remember, counsel first brought Gifford upon the stand to prove that Dye was lying when he said that he was there on that platform. Gifford told you that there was not anybody out there. He said if there had been he should have seen them and put them off the platform, as it was his duty to do. Carlan told you likewise that if there had been anybody on that platform Gifford would have put them off. Having got the proof that Dye was not there, they brought in little Hess to prove that he was there, but that he was mistaken as to the person who called the time; that it was Hess who called the time—ten o'clock ten—and not Surratt. That is one of the results which always attend trying to prove what is not true. They did not see where it was leading them. Great care did they take by bringing Gifford and Carlan on the stand to prove that Dye could not have been on the platform at all, and yet, forgetting that, they bring Hess on to prove that he *was there*, but that he was mistaken as to the person who called the time. Let us see what Carlan said. These attempts at making up something that is not real are a little curious and interesting. There is no contriv-

ance by means of which you can make fiction appear like truth. One is real, and has the stamp of the pure gold upon it, and the other is a forgery which is clearly perceptible. It does not require a very great expert to tell the difference. I am not much of an expert generally, but I am enough of an expert in these things, and have had experience sufficient, to tell when a man is speaking the truth and when he is making up a story. It requires no great genius or skill to enable one to do that. You can do it. All men can do it who will observe closely. I will show from their own statements that this is a made-up story, and that there is not a word of truth in it. I read from little Hess's account, page 685—little Hess, the one, you remember, who they said looked so much like Surratt that you could not tell them apart, and yet between whom, when they stood up together, you saw there was not the slightest resemblance :

A. I was not in the American Cousin, but was in a song that was to be sung after the performance of the American Cousin.

Q. Were they there before you or not? A. Mr. Carlan and Mr. Gifford were there before I was.

Q. From what direction did you come toward them? A. As I came out of the theatre I met them at the door.

Q. Did you leave them? A. I did.

Q. Which direction did you take then? A. I went right back into the theatre again.

Carlan then came on and told his story. He had not been with the witness, and therefore had not heard what Hess had said; and so after he came on he found himself in a fix. He did not know what a cross-examination was; I do not think he had ever had one before. He did not know what sort of questions were going to be asked him, and he contradicted Hess dead. They had not fixed the matter up together, or at least not this part. Ah! gentlemen, truth requires no fixing up; but one lie generates another until ten thousand lies are made from one, and no two are consistent with any truth. Lies cannot be carried out, and, as I have before said, I repeat that I am never afraid of a liar on the stand.

Q. Did you see them afterwards? A. I did not.

Q. When you came out and spoke to them, was anything said about the time? A. Yes, sir; I asked them what time it was. Mr. Carlan walked as far as the first door in front of the theatre, leading into the audience department, looked at the clock, and came back and told me it was ten minutes past ten. Says I, "Ten minutes past ten; I will be wanted in a few minutes."

When I came to cross-examine him further, it came out he was not wanted until after the play was over, and it was not over, or near over, at that time; yet he said, "I will be wanted in a few minutes;" and then left them immediately and went back into the theatre again. "I do not think I had been there more than two minutes when I heard the discharge of a pistol."

This was Hess's story, which Carlan did not hear; but if he had, I doubt whether he would have had sense enough to have put it together and remembered it.

Q. Did you think there was anything extraordinary in its being ten minutes past ten? A. No, sir; I did not until they spoke about it.

Q. Then you had to hurry, did you? A. Yes, sir; I had nothing else to do, and I thought that I had better linger inside than outside.

Q. The play was not then near over when the President was killed? A. No, sir; I think the second scene was on.

Now, that was little Hess's own statement. He didn't know about his cross-examination; that was going to trip him up, and show what he had stated to be a lie. The second scene only was on, and yet he threw up his hands and says, "Ten minutes past ten; I shall be wanted in a few minutes." After saying this, he admits that he was not wanted. Gentlemen, this was of his own showing. He goes on:

Q. There was no occasion, then, for you to be in a great hurry? A. No, sir; there was no great hurry.

Q. And you did not hurry? A. No, sir; I walked on leisurely.

He was tremendously startled on his direct examination at the lateness of the hour—so much so that he threw up his hands and instantly hurried off into the theatre. Now, let us see what Carlan says about this same story. I turn to page 692 :

Q. After you told him what the time was, did he say anything? A. He said it was very near time for him to go and get ready.

Q. Was that all he said? A. Yes, sir; I do not remember anything else.

I want to call back to your minds just here the cross-examination of Hess, because I had just then read to you, and you had fresh on your minds, the antics through which little Hess went, throwing up his hands, &c., when telling you of what he said and did when informed of the time. Let us go a little further. I have just read to you what he said when he went into the theatre, and, as he says, did not come out again, thinking that was his best place. He goes on :

Q. He did not say anything else about the time, did he, except to ask the time? A. I think he made the remark that it was pretty near time for him to get ready for the song.

Q. Is that all he said? A. That is all I remember.

Q. That is every word that you remember of his saying? A. That is every word that I can call to memory just now.

Q. Which way did he go after he said it was time for him to dress—that being all he said? A. He went up the street, I believe; then turned, and, as far as I can recollect, went into the theatre.

Hess told you right the other way—that he went right into the theatre. As I told you, Carlan did not hear his testimony.

Q. What is your recollection about it; did he go up the street, or go directly into the theatre? A. I cannot call to mind which.

Q. What is your best recollection? A. The fact is, I have no recollection at all about it, any more than his being there.

What in Heaven's name did he come on the stand for and be sworn, if he had no recollection about it? He did not know. He knew very well from the tenor of these questions that he was running into a difficulty, and he endeavored to turn it off in that way. Men are very apt to become know-nothings under such circumstances.

Q. Do you think he went up the street? A. He may not have gone very far.

Q. Do you think he went up the street? A. I cannot say whether he went up the street or not.

Q. What do you wish the jury to understand—that he went up the street, or that he did not? A. He walked backwards and forwards for a minute or so.

Q. Did he go up part of the street? A. He went up above where we were standing.

Q. What did he then do? A. I do not know what he did. He came back again.

Q. How far did he go up? A. Ten or fifteen feet.

Q. Which? A. I do not know which.

Q. Did he then go directly into the theatre? A. I have no recollection whether he went into the theatre. He was one of the attachés of the theatre.

Q. State whether he went into the theatre. A. I do not know whether he did or not. I was not interested in where he went.

That is the way he got along with his testimony, after all this pantomimic exhibition of little Hess. Hess tells us he inquired the time of Carlan, and when Carlan told him ten minutes past ten, he, throwing up his hands, repeated it, what Carlan had told him; and yet Carlan does not recollect anything at all of that. Hess says, too, he went right back into the theatre; and yet this man cannot tell whether he went back into the theatre, up the street, or where he went.

Now, there is another curious attempt of the same kind, resulting in the same way, as all such attempts will result. You remember the testimony of Sergeants Dye and Cooper in relation to their passing Mrs. Surratt's house, and of Mrs. Surratt lifting the window and inquiring what was going on down town. You remember that they stated the street was perfectly quiet, they not meeting any person on it except two policemen, to whom they communicated the news of the President's assassination. Counsel felt the force of this evidence, and

knew that they must do something to get rid of it. Let us see how they undertake to do this. They bring on the stand a Dutchman, named Kiesecker, who lived in a house on another street—Sixth street, I believe—the steps of which ran back towards Mrs. Surratt's. You will remember that there is an alley between the lot and Mrs. Surratt's house. He says he sat there smoking on those steps until 11 o'clock that night, when his wife called him to bed. He is asked, "Did you see anybody pass?" "No; nobody; it was all silent." "Did you hear anybody talking from the window of Mrs. Surratt's house?" "No." Well, it is not very likely he did at that distance. He said he could not tell what kind of weather it was, nor whether there was or was not a moon.

He was very distinct, however, about not seeing anybody, or hearing any talking whatever, until his wife called him to bed. Equally positive was he that he heard no soldiers pass; and he also states that he knew nothing of the murder of the President until the next morning. They were very careful, however, not to call his wife, Katrine. If they had she would in all probability have told you that she had put her husband to bed that night; that he had previously taken a little lager, and that he couldn't for the life of him have told whether it was 8, 9, or 11 o'clock when she tucked him into bed. (Laughter.)

That, somehow, didn't work to their satisfaction; and what next was done? After some weeks had rolled by they brought on the stand a Mrs. Lambert, first, however, bringing on her son to describe the house in which his mother and himself lived, which house was a block and a half or more further up the street. Gentlemen, I hope you have passed that house. I have. If you have you must have seen how little resemblance there is between the house of Mrs. Lambert and that of Mrs. Surratt's. They are different altogether, both as regards their mode of entrance and their general appearance. Mrs. Lambert, on that night, goes to the door and stands on the stoop. She is there but a few moments when her colored servant comes and tells her it is too damp, and gets her to come inside. She then goes in and stands at the parlor window. A great many soldiers pass along, then two together, whom she stops, and with whom she holds a conversation. The dress or appearance of these soldiers she is unable to describe. The Dutchman didn't see or hear anybody passing. The moment I direct your attention, gentlemen, to that awful night, you will, I am sure, recall the fact that after the assassination of the President all was commotion, and men might be seen in all directions hurrying to and fro. Notwithstanding this fact, the Dutchman sat there until 11 o'clock, and never heard or saw anything whatever of all this. Mrs. Lambert had put them in a sad plight by her testimony, and, perceiving the effect of it, the counsel inquires of her, at the close of the cross-examination, whether she was satisfied this conversation was after 11 o'clock, evidently hoping that she would change it. But she did not understand what he desired to have her do, or else meant to tell the truth—I care not which way it is—and she answers, "Yes, sir; between 11 and 12 o'clock;" which nailed it fast. That didn't answer their purpose very well, for long before that Sergeants Dye and Cooper had been out to their camp, and the city was all in confusion. I have before said to you, gentlemen, that I am never afraid in any lawsuit of lies. Truth is the only thing to be feared. Well, driven from every point on that subject, we next hear from the counsel, toward the end of this cause, of another physical impossibility. The first impossibility was getting the prisoner from Elmira on the 13th. When that vanished, a few days ago, another "physical impossibility" sprung up in the mind of the counsel on the other side—the physical impossibility of Surratt getting from Canada to Elmira. That was a new thought. Counsel read certain railroad statistics; called Mr. Ball's attention to them, and asked him to note them down as he went along. He then, from those statistics, brought in a train at 8 o'clock on the 13th, and stated that it was physically impossible to get him there before. That was the earliest possible moment of getting into Elmira. That was a new idea. Up to this time

they had him in Elmira, talking with Carroll and seen by Stewart, and seen by his partner. But now springs up in the mind of counsel this physical impossibility. We had, as you recollect, a physical impossibility in getting him out of Elmira before, but that physical impossibility we overcame very easily when we got at it. We had never taken any pains to overcome this physical impossibility, because we cared nothing as to how he got to Elmira. Our business was to bring him to Washington, and that we have done.

Again, gentlemen have been talking very earnestly about this matter, as though he left at 3 o'clock in the afternoon. Now, there is not a particle of evidence of that sort, and I challenge them to point to any. The witness does not say it was in the afternoon, as you will see from his testimony, for I am going to read it on that point. I read from pages 286 and 288 :

Q. At what time did the train leave? A. The train left at 3 o'clock; leaving the house at 2.45.

There is no intimation whether it was in the morning or whether it was in the evening. The fact exists that he got into Elmira, and therefore the "physical impossibility" is out of the way so far as that is concerned. He could easily have gotten there by a special train, or by other trains, just as they might have been running, for you will remember it is in evidence that there were breaks in the road caused by a recent freshet, and that the trains were in consequence running irregularly.

Having followed the prisoner in his flight to Boucher's house, let us see what that pious father says about him. I read from page 1022 :

Q. Where did you first see the prisoner? A. In St. Liboire.

Q. At what time? Give us the day of the week, if you can. A. I think it was on Wednesday evening.

Q. And that was the first time you ever saw him? A. Yes, sir.

Q. Who came there with him? A. Joseph F. Du Tilly.

Q. Did he come afoot, horseback, or in a carriage? A. It was in the evening, and I was in bed; therefore I could not say. I heard them say, however, that they came in a cart.

Q. What time in the evening did they reach your house? A. At 9 or 10 o'clock.

Q. Did they tell you who he was when he came? A. No, sir.

Q. Didn't they give some name? A. Yes, sir.

Q. What name? A. Charles Armstrong.

Why did he go to Boucher's house and secrete himself there? Why did he there give the name of Charles Armstrong? It was entered in the register of the hotel only a few days before as John Harrison. Why was he so fond of this change of names? It was not for the purpose of escaping detection, for you know counsel have told you that he was an innocent man. Ah, gentlemen, does not this flight, this change of names, and the other circumstances that have been related, clearly show that he was guilty? Yes, he seems to have had that same stamp upon him which the Almighty put upon Cain when he said that he should be a fugitive for the blood of his brother. Again I ask why this flight, and why this concealment? There was some reason for it, was there not?

He is further asked :

Q. When did you first suspect that he was John H. Surratt? A. About ten or twelve days after his arrival at my place.

Q. Did you in early May? A. By that time, or the last of April.

Q. By the first of May or last of April you believed he was John H. Surratt, did you? A. A little after the first of May.

Now, so early as that, when a reward was offered by the city and by the government, and this fact published all over the world, he was secreted by this man under the name of Charles Armstrong. Some months after that he escapes and flies to Rome. While there, serving in the Papal zouaves, he is detected, and the head of the church, which this Boucher so wretchedly vilifies, hastens to deliver him up to justice, even before the authorities of this government asked for him. I have said that that priest would hear from his Pope and his bishop; and he will.

He goes on :

A. From a quarter to half an hour.

Q. After you found out that he was gazetted in the papers as one of the murderers and conspirators, you let it be known to the authorities, I take it, didn't you? Didn't you communicate it to the authorities of the United States as soon as you found out he was the one?

A. No, sir.

Q. Didn't you tell it? A. No, sir.

Q. Did you try to conceal it? A. I did not speak of it.

Q. Did you try to conceal it?

Mr. BRADLEY. From whom?

Mr. PIERREPONT. From everybody.

Mr. BRADLEY. Conceal what?

Mr. PIERREPONT. Conceal the fact that this man was staying in his house.

WITNESS. I never spoke of it.

Mr. PIERREPONT. I say, did you try to conceal it? A. I do not remember.

Q. Don't you know whether you tried to conceal it or not? A. If you don't speak of a thing, is it concealing it?

Q. My question is whether you tried to conceal it? A. He was in my house.

Q. Did you try to conceal him there? A. He remained in my house without any outside communication except such as I have related.

Q. I ask you if you tried to conceal him in that house?

WITNESS. I do not understand your question.

Mr. PIERREPONT. Don't you understand what concealment means? Did you take the means of concealing him in your house? A. My house was visited by my parishioners every day.

Q. Did they see him? A. No, sir. Some of them did when he went out hunting.

Q. Did they frequently see him? A. No, sir.

Q. Did you let your parishioners know that you were keeping in your house a person published as one of the President's assassins? A. Not to my knowledge.

Q. How came you to come here to testify? A. I came of my own accord.

Q. Can you tell any of those who hunted with him? A. Joseph F. Du Tilly.

Joseph F. Du Tilly, the witness who came on the stand here to speak against Dr. McMillan, on page 1028, testifies as follows :

Q. What physician attended him during all this time that he lived with you? A. No physician at all.

Q. Won't you give us the day of the week that he left your place to go away from you?

A. I cannot.

Q. Will you give us the day of the month? A. I cannot.

Q. Will you give us the month? A. Yes, sir.

Q. What month? A. In July; the latter part of July.

Q. Where did he go? A. To Montreal.

Q. How often did you see him after he went to Montreal? A. I used to see him about twice a week.

Well, he lay there in concealment, then, until the last of July, and then went into concealment at the house of La Pierre, in Montreal. What was that for? All those who had been arrested on the charge of being engaged in this conspiracy had been tried, and had had their sentence put into execution. He had been where he could know what was going on, and had been visited by his friends. He had written this letter to Atzerodt in the month of May, while the trial was progressing. He knew all about this. He knew where his mother was; where all were, and yet he, an innocent man, lies there concealed in these disguises. But the counsel said to you the other day, "Why, gentlemen, if you were advertised for wouldn't you conceal yourself?" I put this question to you: "If any one of you should happen to be in Canada, and you should see in the newspapers a reward offered for your apprehension as a murderer or conspirator to murder some man, would you, knowing you were innocent, go into concealment?" No, you would not. The earliest train that came would bring you here. Would not every honest man, without one moment's delay, go before the authorities and say, "Here I am. You charge me with a crime. I am innocent of it; I am not a cursed fugitive on whom the Almighty has passed sentence for blood, and fleeing away, but am innocent of the crime charged."

Mr. MERRICK. I agree with you entirely that that would be the course of

men under ordinary circumstances, when the law was properly administered and the country was in an undisturbed state; but with the country in the condition it then was, any man would have acted as he did at that time.

Mr. PIERREPONT. Gentlemen, I care not at what time. I will take you back to between the 15th of April and the 16th of September, 1865, when the prisoner was concealed. Tell me, is there a man of you who, if you had seen your name gazetted in the newspapers, and heard of a reward being offered for your apprehension as an assassin of the President, would have remained there concealed one moment? Would you not have hastened to the city with all the speed you could, and say: "Here I am. I am innocent of the crime charged against me, and call upon you to show my guilt."

I take the gentleman's own suggestion and put it to you as men of truth, honor, and integrity, and your answers will all be the same: "We will at once go and surrender ourselves up in order that the charge may be investigated." Instead of that, in this instance, we find the prisoner concealing himself, and in the month of May, while the trial of the conspirators is progressing, this letter to Atzerodt is written. He is in no hurry to come back to Washington, but remains there until September. Surely then the excitement is all over. There is no further trouble about that. Peace has been restored. The passions of the hour have been made quiet. Why don't he return? Why does he go aboard the Peruvian under disguise? Why land in Ireland as he did? Why wander about in the darkness and secret ways of Liverpool? Why flee to Rome, a strange country, and join the Papal zouaves, whose language he couldn't understand—where he was necessarily a pauper and a slave—where he had no sympathy? Why, when surrendered, run the risk of losing his life, flee to Malta, and from Malta to Egypt? Why all this, if an innocent man? Answer me that. But, ah! gentlemen, he was not innocent. He was guilty, and God said he should be a fugitive for the blood he had aided in spilling.

Now we go on a little further with Mr. Boucher's testimony. Boucher ought to have been wiser, and, like La Pierre, have kept away. I hear, however, since I have been speaking, that La Pierre has received punishment from the church for the part he took in the concealment of this man.

I read on:

Q. Had he any disguises of any kind when he was on the boat? A. I did not see any except his hair, which was dyed.

Q. Was his mustache dyed? A. I do not recollect whether he had a mustache or not.

Q. Did he wear spectacles? A. Yes, sir.

Q. That was a disguise, was it not? Did he have any other disguise? A. Not to my knowledge.

Q. Did he have his hair dyed while he was with you? A. I do not remember.

Q. Don't you remember whether he had or not? A. No, sir.

Well, now Boucher goes on and tells us a little about himself. It was somewhat interesting to know what kind of a man this was that was concealing a person under these false names, and whom he knew to be charged as one of the assassins of the President; at a time, too, when every honorable rebel, when every pagan and every heathen that heard of it—when the whole civilized world were sending expressions of condemnation and letters of condolence to the government. What does he say at such a time as this?

Q. Were you in Portland last summer? A. I passed through Portland.

Q. Did you stop there? A. No, sir.

Q. Were you at a watering place close by there? A. Yes, sir.

Q. A place called Cape Elizabeth? A. No, sir.

Q. Were you at any place near Portland last summer which was a sea watering place?

A. Yes, sir.

Q. What was the name of it? A. Old Orchard Beach.

Q. How long did you stay there? A. About a week.

Q. What was the name of the house at which you staid? A. I do not remember.

Q. Was it the Ocean House? A. I do not remember the name at all.

Q. Who was there with you that you knew? A. Two of the priests.

Q. Who were they? A. Father Beauregard and Father Hevey.

Q. Did you state there that you were his son?

Mr. MERRICK. Father Beauregard's son?

Mr. PIERREPONT. Yes, sir.

WITNESS. That is rather a hard question.

Why was it a hard question? What was there hard about it? The simple question was, "Did you state when you were there at that time that you were Father Beauregard's son?"

He is a holy priest, in the holy vestments of the church, and the learned counsel called him Father Boucher.

That is rather a hard question, he says. Well, it was hard for him to say that he did, but that was the fact. The next question is, "Did you state at this house that you were his son?" "I do not remember," he answers. Well, I am pretty sure I should never confess to that priest, and I do not believe many people ever will. There is something wrong about that man. You may rest assured that he will not long be a reproach to the church. All churches have bad men in them, but they finally get rid of them, and the church will get rid of this man.

Let us read a little further :

Q. Did you register your real name? A. No, sir.

Q. What name did you register yourself as? A. Jary.

Q. Did you go there dressed as a priest? A. I went dressed as I am now.

Q. I ask you if you went there in a Canadian priest's dress? A. My answer is, not with the ordinary ecclesiastical suit we wear in Canada—not with the cassock. There is a little difference between the dress in the two countries, and Portland is in the United States.

Q. Did you wear the priest's dress of Canada last summer at this watering place? A. I was dressed as I am now; you can judge for yourself.

Mr. PIERREPONT. I have never been in Canada. My question was simply as to whether at this watering place you did wear the Canadian priest's dress? A. No, sir.

Q. You say you entered a false name on the register? A. Yes, sir.

Q. Did any difficulty occur there in which you were involved? A. Not any to my knowledge.

Q. Did you carry yourself or give yourself out there as a priest? A. No, sir.

Q. What did you call yourself there? A. Jary.

Mr. PIERREPONT. I mean in what character? You say it was not that of a priest? A. I did not say what I was.

Q. I ask you what you called yourself there in occupation last summer? A. If you want me to say what I thought they took me for I can tell you.

Q. What? A. They took me for a lawyer.

Q. Did you disabuse their minds of that? A. I did not say anything about it.

Q. You did not disabuse their minds of that impression? A. No, sir; I thought that was honorable enough.

Suppose, when I get through with this trial, I should go to Canada, and when I got there I should dress myself in a priest's apparel, and pass myself off as Father So-and-so, and then when I got back here that fact should be disclosed, and when questioned about it I should say, in explanation, "I thought the character of a priest was honorable enough." How would you regard me? You would naturally suspect that some great hidden motive impelled me to this strange course; and so with Father Boucher. If I understand the rule of the Catholic church, it is that the priest shall not put off his dress, shall not take an assumed name, but shall always appear dressed as a holy father, which he professes to be, prepared at all times to hear the confessions of the sinner, to bind up the broken heart and administer the consolations of religion. I say again the church will take care of this man.

I now come to near the close of what I have to read. I now refer to the statement of Dr. McMillan, page 582:

Q. How did he happen to come to you? What occurred that brought him? A. About a week or ten days previous, I had met in one of the streets of the city of Montreal—

Q. I understand you that a week or ten days previous, somebody came to you. Who was that somebody? A. His name is La Pierre.

Q. Who or what is he? A. He is a priest.

Q. Where does he live? A. I do not know where he lives now. He lived in Montreal then. I understand he has left the city.

Q. Did he say anything about Surratt? A. Yes, sir; he said——

Mr. BRADLEY. You need not state what he said.

Mr. PIERREPONT. Well, he said something in relation to somebody? A. Yes; that somebody was going. I was going on the 15th of September to join my ship. On the steamer Montreal I met this Mr. La Pierre again, by agreement. He said to me that he would give me an introduction to his friend.

Q. Did he introduce him? A. He brought me up to a state-room, of which he had the key.

Q. Who had the key? A. La Pierre.

Q. State whether it was locked. A. It was. He unlocked the door, and in the room I found the prisoner at the bar.

Q. Was that the first time you had seen him, when the door was unlocked? A. The first time.

Q. What did he say, in the presence of the prisoner? A. He introduced the prisoner to me under the name of McCarty, the friend to whom he had referred before. I never suspected who the gentleman was, and consequently I passed the evening and most of the night with him and a third party besides the priest.

Q. Will you tell the jury, when you went into that room and found the prisoner, what was the condition of his hair? A. His hair was then short.

Q. What was its color? A. A dark brown, I should say.

Q. Was it dyed or natural? A. I did not perceive that night that it was dyed. I afterwards found it out.

Q. What was the conversation about that evening? A. I do not remember; it was a general conversation.

Q. Did La Pierre go on with you down to Quebec? A. He came all the way down to Quebec.

Q. When did you reach Quebec? A. I should say between five and six o'clock, Saturday morning.

Q. Do you know whether La Pierre slept in this same room? A. I could not say.

Q. Do you know whether the prisoner went out of the room that night? A. I believe we went down once to the bar-room.

Q. At what time in the night? A. I do not know; I suppose ten or eleven o'clock. I could not tell you the time.

Q. When you got to Quebec what happened? A. I believe we had breakfast on board the steamer in the morning, probably at seven or eight o'clock. Between nine and ten the company sent a tug to take the passengers and their luggage on board the steamer Peruvian. We all went on board.

Q. What occurred about the room; how was it arranged on the steamer for the prisoner?

A. After we arrived on board La Pierre says to me——

The COURT. Was it in the presence of Surratt?

WITNESS. I believe so, sir. He said he wished me to let the prisoner remain in my room until the steamer had left. I did so; I got the key of my room, let him in, and went with him.

Q. Did he occupy it until the steamer had left? A. He did.

Q. When did the steamer leave? A. Within a very few minutes; perhaps twenty minutes or half an hour.

Q. Where did La Pierre go then? A. He went back on shore.

Q. Did you see any more of the prisoner that night? A. Yes, I saw him again.

Q. Where did you see him—in your room? A. I may have seen him in my room, but I do not recollect. I remember that while there, after lunch or after dinner, (lunch was at twelve and dinner at four,) the prisoner came to me, and pointing to one of the passengers, asked me if I knew who the gentleman was. I told him I did not; that I supposed he was a passenger, as he was himself; that that was all I knew about the man. He then said he thought the man was an American detective, and that he thought he was after himself. I said I did not believe anything of the kind, and that I did not see why he should be afraid of an American detective. I said to him, "What have you done that you should be afraid of an American detective?" He said that he had done more than I was aware of, and that very likely, if I knew, it would make me stare, or something to that effect.

Q. In this connection what act did he do, if any? A. I said that he need not be afraid of an American detective; that he was on board a British ship, in British waters, and that if an American detective had been after him, he would have tried to arrest him before he left port. He said that he did not care whether he was or not; that if he tried to arrest him this would settle him; and in saying that, he put his hand into his waistcoat pocket and drew a small four barreled revolver.

Q. Did any other parties go down on that boat before you took the steamer? A. There were a great many; I could not tell you how many.

Q. Were there any whose names were given to you? A. Yes.

Mr. BRADLEY. That was on the steamer Montreal?

WITNESS. That was on the tug from the steamer Montreal to the steamer Peruvian.

Q. Now, sir, did the prisoner tell you who any of the other men were? A. No. I believe he knew nobody else on board.

Q. Did you know any other man?

Mr. MERRICK. Of your own knowledge? A. Yes.

WITNESS. There was among the passengers William Cornell Jewett.

Mr. MERRICK. Otherwise known as "Colorado?"

WITNESS. Yes, sir; the very man.

Q. Who else? A. There was also a colored man who had been in the service of Jefferson Davis.

Mr. MERRICK. How do you know that?

WITNESS. He told me so himself.

Q. Did you know Beverley Tucker? A. Only from having been introduced to him on that morning of the 16th of September.

Q. Will you tell us where you saw Beverley Tucker on that day? A. I met him on the tug going from the steamer Montreal to the steamer Peruvian.

Q. Will you state whether he went on board the Peruvian? A. He did go on the Peruvian, but not to cross.

Q. I believe you stated that the prisoner went by the name of McCarty? A. McCarty; yes, sir.

Q. When did you sail? A. I should think about ten in the morning; I cannot say positively. I know the steamers were in the habit of sailing between nine and ten.

Q. When morning came, did you notice more particularly the prisoner's mustache and hair? A. After I got on board the steamer I perceived that his hair had been dyed.

Q. What did he wear, if anything, upon his eyes? A. He wore a pair of spectacles.

Q. What did he tell you about the spectacles he wore, and about his hair? A. I do not remember that he said anything about his hair. I remember his saying that he did not wear spectacles because he was short-sighted, but because they aided in disguising him a little.

Q. Did you have any conversation with him, after you got on the steamer, behind the wheel-house? A. I had conversations with him every day from the 16th until we arrived at Londonderry; that was about nine days.

Q. Where did these conversations take place? A. If I remember right, mostly on what is called the quarter-deck; sometimes behind the wheel-house.

Q. Will you state what he said to you about the beginning in relation to a trip to Richmond? As I cannot give it all at once, I will ask you to begin with that. A. I remember his saying to me that he had been in the habit for some time during the rebellion of going to Richmond with despatches, and bringing despatches back to this city, and also to Montreal.

Q. Did he tell you what male or female went with him?

WITNESS. I remember his stating that he at one time was told in Montreal that he would meet a lady in New York.

COUNSEL for the defence again asked witness to suspend, to enable him to write down what he had said.

The COURT said that counsel must take either one course or the other. They must not interrupt the narrative for this purpose, or they must allow the witness to be directed by questions after each interruption.

WITNESS proceeded. That he met the woman in New York; he came on to Washington with her; from Washington he started on the way to Richmond with her and four or five others; that, after a great deal of trouble, they managed to cross the Potomac; that, after they got south of Fredericksburg, they were driven on a platform-car, drawn or pushed by negroes. As they were drawn along, they saw some men coming toward them—five or six, if I recollect right. They ascertained that these men were Union prisoners, or Union soldiers escaped from southern prisons. They were, he said, nearly starved to death; that this woman who was with them said, "Let's shoot the damned Yankee soldiers." She had hardly said the word when they all drew their revolvers and shot them, and went right along, paying no more attention to them.

Q. Was the name Mrs. Slater? A. It sounds like it, but I would not be positive that it is. The woman's name was very conspicuous in Montreal during the trial of St. Albans raiders.

Q. What further did he say about the condition of these men? A. I understood him to say they were in a very miserable way; that they had been obliged to hide themselves in swamps and other places, and I understood him to say they were almost dead.

Q. Was there anything said about money in this connection? A. Yes.

Q. What was that? A. He told me he had received money in Richmond from the secretary of state, Benjamin, several times.

Q. Did he tell you how much? A. I remember two amounts, \$30,000 and \$70,000. I do not remember at what times he received them. He stated particular times. I remember these amounts.

Q. Did he tell you the dates when he reached Montreal from Richmond? A. I do not remember that he did. All I remember about that is that he was in Richmond a few days previous to its fall; that is to say, in the week immediately previous.

Q. Did he give you any account of crossing the Potomac at that time? If so, state it.
Mr. BRADLEY desired it to be noted that all this testimony came in subject to his exception.

WITNESS continuing. I remember his stating one day that there were several of them crossing the Potomac in a boat—it was in the evening, I believe—when they were perceived by a gunboat and hailed. They were ordered to surrender, or else they would be fired upon. They immediately said they would surrender. The gunboat sent a small boat to them; that they waited until the small boat came immediately alongside of them, then fired right into them, and escaped to the shore.

Q. What do you know about a telegraph communication down there discovered by these parties? A. I remember one day that he said he was with a regiment of rebel soldiers one evening; that after sunset he and some others went into an orchard or garden, close by, to pick some fruit; that while sitting on the ground they heard the ticking of a telegraph, or what they supposed to be a telegraphic machine; that they went down to the headquarters of the regiment and reported the fact; that the party in command ordered some soldiers to go to the house connected with the orchard and search it; that in the garret of the house, in a closet, they found a Union soldier; that they found he had an underground wire, and was working a telegraph. They took him down and shot him, or hung him, I forget which.

Q. In passing between Richmond, Washington, and Montreal, did he state anything of the names he took? and if so, give them. A. I remember he travelled under the names of Harrison, Sherman, and some others I forget.

Q. You have named two specific sums. What further did he say in regard to his having received money from Richmond? He told me so many things that I cannot recollect, at this distance of time, everything he said. All I can say, is, he repeatedly told me he received money from Richmond. The only two sums I remember of are thirty thousand and seventy thousand dollars.

Q. Will you give us his conversation in reference to landing in England, as connected with our government in any way? A. I remember the last day he was on board, which was Sunday afternoon. After tea he came to me on the quarter-deck and said he wished to speak to me. I went with him behind the wheel-house. He repeated to me many things he had already said before, parts of which I have stated here, and the others I do not recollect. After talking a long time in this way, he said, pointing to the coast of Ireland, in sight of which we were then sailing, "Here is a foreign land at last. Then," said he, "I hope I shall be able to return to my country in two years. I hope to God" at the same time holding a revolver in his hand, "I shall live to see the time when I can serve Andrew Johnson as Abraham Lincoln has been served."

Q. Did he say anything about what he would do if an English officer, at the request of the United States, should take him in England? A. One day, in talking of the mere possibility of his being arrested in England, he said he would shoot the first officer who would lay his hand on him. I remarked that if he did so, he would be shown very little leniency in England. Said he, "I know it, and for that very reason I would do it, because I would rather be hung by an English hangman than by a Yankee one, for I know very well that if I go back to the United States I shall swing."

At page 591 he says:

Q. I will call your attention to the early part of April—the month of the assassination of the President—and ask you what the prisoner told you on the subject of despatches at that time? A. All I remember about this is that he said, at the beginning of the week during which the assassination took place, that he was in Montreal; that he had arrived there within a few days from Richmond, with despatches.

Q. Did he characterize the despatches? A. I remember that he said they were important despatches for Montreal, which had been intrusted to him in Richmond. What they were I have no knowledge at all.

Q. Did he say what day of the week of the assassination he was there? A. He told me that he was there at the beginning of the week of the assassination.

Q. Did he tell you what he received, and from whom he received it? A. He stated that he received a letter from John Wilkes Booth, dated "New York," ordering him immediately to Washington, as it had been necessary to change their plans and act promptly.

Q. Did he tell you what he did? A. He told me that he started immediately on the receipt of the letter.

Q. Did he tell you anything that he did on his way to Washington; and if so, what?

A. The first place he named was Elmira, in the State of New York.

Q. Did he state anything that he did there? A. He told me that he telegraphed to John Wilkes Booth, in New York.

Q. Did he tell you what he learned? A. He told me that an answer came back that John Wilkes Booth had already started for Washington.

Q. Did he say anything to you in relation to his own escape? A. He said that he arrived at St. Albans one morning a few days after the assassination.

Q. What, if anything, did he tell you occurred in St. Albans that morning, a few days after the assassination? A. He said that the train was delayed there some time, and that

he took advantage of it to go into the village to get his breakfast; that while sitting at the public table with several other persons, he saw that there was a great deal of talking and excitement among those who were at the same table with him.

Q. Did he tell you what he said? A. He asked his neighbor what the talk was about. His neighbor said to him, "Why, don't you know that Mr. Lincoln has been assassinated?" The prisoner replied, "O, the story is too good to be true."

Q. Did he describe the man with whom he held this conversation? A. I understood him to say an old man; that is all I remember.

Q. Did he tell you what the man did? A. The man whom he addressed then handed him a newspaper. He opened the paper, and said that among the names of the assassins he saw his own.

Q. What did he say he then did? A. He said that it so unnerved him at the moment that he dropped the paper in his seat, and that was the last of his breakfast for that day.

Q. Did he tell you anything about a handkerchief as he was going out from the breakfast room? A. He said he got up from the breakfast table, walked into another room, and just as he was about passing from the room he heard a party rushing in, stating that Surratt must have passed, or must then be in St. Albans, as so-and-so had found his pocket-handkerchief in the street with his name on it.

Q. What then did he say? A. He said that at the moment, without thinking, he clapped his hands on a courier bag, in the outside pocket of which he was always in the habit of carrying his pocket-handkerchief, and found out that he had really lost his pocket-handkerchief.

Q. And then what did he tell you? A. He said that then he thought it was time for him to make himself scarce.

Q. Did he tell you in what way he then made himself scarce? A. I understood him to say that he made for Canada as soon as possible.

Q. Did he tell you to whose house he went? A. I remember that he told me that he went to one Mr. Porterfield's, in Montreal.

Q. Did he tell you who he was? A. He told me Mr. Porterfield was a confederate agent in Montreal.

Q. What did he tell you as occurring there to himself? A. He said he staid there a short time; how long I could not say; until, however, they found out that detectives were beginning to suspect that he was in that house, and it was found necessary for him to leave there.

Q. Did he tell you how he left there? A. He said that one morning two carriages were driven in front of Mr. Porterfield's house, and that he, and another party dressed nearly as he was, came out at the same time, and he got into one carriage, and the other in the other, and drove off, one carriage driving one way and the other in the other.

Q. Will you tell us how he told you he was dressed, and the one who was dressed just like him? A. I remember his telling me that he wore at that time—I cannot tell whether he had on the same dress that night—what is known in Canada as an Oxford jacket.

Q. Will you describe it? A. I believe it is what is called in this country a Garibaldi jacket.

Q. Did he tell you how long he staid there? A. I understood him to say that he staid there some two or three weeks.

Q. Did he tell you in whose house he staid? A. He said he staid in the house of a priest named Charles Boucher.

Q. Did he state any circumstance connected with his leaving that house; when he left, &c.? A. In describing the place he said that between the bedroom and the sitting-room there was a hole cut in the partition to put a stove in; that under the stove there was a vacant space about six or eight inches high; that one day while the priest was absent he was lying on the sofa in his bedroom, when one of the female servants, desiring to know who was in the priest's house, put her head under the stove so as to see in the room. He saw her face as it came under the stove, and kind of scared her away by jumping suddenly at her.

Q. What occurred after that? A. The story was immediately circulated around the village that the priest had a woman in his bedroom hiding. Then the priest told him that he could not keep him any longer; that he must find other quarters.

Q. What then did he do? A. He came back to Montreal.

Q. Did he tell you to whom he went? A. I understood him to say that he went to the man who introduced him to the priest.

Q. Will you state what he related to you in relation to his secretion there? A. He told me that for four months and a half or so he was secreted in a dark room, from which he never came out except a few times, when he would go out late at night and take a walk.

Q. Will you tell us the physical condition that he was in when you first saw him on the boat? A. When I first met him the prisoner was very thin, and looked very thin, nervous, and careworn.

Q. What was his conduct on the ship in respect to being quiet or otherwise?

Mr. BRADLEY objected to the question as irrelevant. Objection overruled. Exception reserved.

A. His general conduct was gentle. He would, however, show signs of nervousness whenever any one came suddenly behind him. He would turn round and look about as if he expected some one to come upon him at any moment.

Q. Will you state what occurred after? A. I had left the prisoner after the conversation that I related yesterday; I should say it was about half past 9 o'clock when I left him. About half past 11 or 12 o'clock I was called out of the room of one of my brother officers by one of my stewards, who stated that a passenger wanted to see me outside. I came out, and found the prisoner standing in what is called on steamers or ships after-square. He was already dressed, ready to go ashore. He had previously told me that he had intended to come down with us to Liverpool. He asked me what I would advise him to do—to land in Ireland, or to come down to Liverpool and land there? I told him I would give him no advice whatever; that he might just do what he pleased and land where he pleased. He then said, "Well, I believe I will go down to Liverpool with you." I was a little surprised, therefore, when I came into the after-square and saw him all ready to leave. I said, "Hallo! are you going ashore? I thought you were coming down to Liverpool." He says, "I have thought over the matter, and I believe it is better for me to get out here. It is now dark, and there is less chance of being seen." Says I, "You have been telling me a great many things about what you have done and seen, and I believe the name under which you travel is not your real name. Will you please give me your own name?" He looked about to see if there was any one near, and then whispered in my ear, "My name is Surratt."

Q. How long after that did he go ashore? A. Within twenty or twenty-five minutes. He then asked me if he could get some liquor to drink; that the bar was closed, and he wished to have something to drink before going ashore. I told him that I would see the barkeeper, and I had no doubt he could get some. I called the barkeeper, and he came and opened the bar-room, and the three of us went in—the prisoner, the barkeeper, and myself. He was nervous; he seemed to be very much excited. He called for some brandy, and the three of us each had a glass. In England and on board ship it is the habit to help any one with the liquor they may want. They never place the decanter before you and tell you to help yourself; but in this instance the barkeeper placed the bottle on the table and told us to help ourselves. The prisoner took the bottle and poured out a large half tumbler full of raw brandy. In a few minutes I asked him if he would not drink with me. He said, "Yes," and we took another, about the same.

Q. What next? A. Within a few minutes afterwards again, the barkeeper says, "It is my turn to treat now," and asked us to take a third glass, and we did so.

Q. Did he take the third? A. He did. I saw he was becoming rather the worse for his drinking. By that time we had arrived at the place where the mails and passengers are taken off from the steamships. I saw the condition in which the prisoner was, and I told the chief officer at the navy-yard it was dark and I was afraid that the prisoner might fall overboard. I said to the chief officer at the gangway, "Will you mind to take this officer by the arm and lead him down?" He did so.

Q. What did you do then with your ship? A. Turned down and went to Liverpool.

Q. What induced you to make this affidavit as soon as you landed? A. Because I thought the prisoner was guilty of a crime, not only against society, but against civilization. I thought it was my duty as a man to go and give him up to the proper authorities.

Was it not his duty as a man? Would you not say it would be your duty, and anybody's duty, as a man?

Now, gentlemen, we have already passed him from Liverpool to Rome. From Rome, where he met his old acquaintance; where he was given up, and from where he escaped to Malta, and thence to Egypt, the place of his final capture. Does not the result of his flight convince you that there is no escape for such a crime as he has committed? From Egypt, in the providence of God, he is brought here before you, who, in the providence of God, are selected to say whether what he has done is a crime, or whether it is all right. If he is not guilty, he is innocent. If he is innocent, the things in which he was engaged are right, and you will say they are right.

I now pass to the *alibi*. I have read to you the law upon that subject. The law says that where witnesses on the part of the government swear positively to having seen the prisoner in a particular place at a particular time, and the defence of an *alibi* is set up, the prisoner must prove so clearly that he was in another place as to leave no doubt whatever on the mind of the jury; and this is required for the reason that it is so very easy to fix up a defence of *alibi*; and for the further reason that, if true, it can always be proved with very little difficulty and beyond all question.

Now let us look to the defence of *alibi* in this particular case. It is the weakest one, I undertake to say, that ever was introduced into a court of justice for a defence; and yet all the witnesses who have testified on that point, with one exception, doubtless told what they thought was true.

Let us for a moment examine the testimony on this point. We will first take up the witness Carroll. Before I proceed with his testimony, however, let me remark that Sarratt is proved beyond a doubt to have been in Elmira on the 13th. There is no doubt about *that*, and he came in that special train on the 13th. The two witnesses we have introduced on that subject saw him there; one you will remember took him across the ferry at that time. Let us see what Mr. Carroll, one of their witnesses, says about it:

Q. State if you can find the date with any degree of certainty? A. The first time was the 13th. He came in on the 14th also.

Q. He came in twice? A. Yes, sir.

Q. How do you fix it was those two days? A. By our petit cash book.

Q. What fact is there in the cash book that enables you to fix the date? A. Mr. Ufford, the proprietor of the house, went to New York on the night of the 12th.

Q. When did he get back? A. He returned on the morning of the 15th.

Q. Do you fix it by that? A. Yes, sir.

Q. Between those two dates? A. Yes, sir.

Mr. Carroll thinks he saw him between the 12th and 15th. I have no doubt he did. I turn now to page 855:

Q. Did you tell Mr. Ufford that it was on the 12th or 13th? A. It may be, but I know very well from our books what the dates were.

Q. Didn't you tell Mr. Ufford that it was on the 13th, and that you knew it from the fact of the time the partner of the house was absent? A. I do not know that I remember distinctly.

Q. What date did you tell the deputy marshal, Mr. Covell, he was in your store? A. After consulting the books I could not have told him other than is mentioned there.

Q. Did you tell him the date? A. I do not know; but if I did, I could not have told him any other date than that in the books.

I now turn to page 856:

Q. Did you tell him inaccurately? A. I do not distinctly remember.

Q. Did you tell him that it was on the 13th? A. I know the first time was on the afternoon of the 13th.

Q. Was that what you told him? A. I cannot distinctly remember.

Was it on the afternoon of the 13th? If it was, he has knocked that physical impossibility all dead. That physical impossibility could only bring him there at 8 o'clock at night. It is too bad to have it destroyed in that way. But I read on:

Q. Did you tell either of these gentlemen that he came in on the 14th? A. If I told them anything at all, I said the 13th or 14th.

That is just what he did say; and that is the time he saw him. Let us go further. He says on page 859:

Q. What did you state to Mr. Knapp about the date when you saw that man whom you thought might be the prisoner? When did you tell him you saw him? A. I think I told him the 13th and 14th of April.

Q. Did you tell him you saw him the 14th? A. I think I did.

Q. Cannot you remember whether you did or not? A. I think I did; there were so many questions asked and so many persons interested about that time that I may be mistaken.

Q. Cannot you tell whether you said you saw him on the 14th? A. I think I said the 13th and 14th.

Q. Do not you think you told him the 12th and 13th? A. I do not think I did.

Q. What do you say about that? A. I do not remember.

Q. They were asking you a great many questions, and very particular about the date, were they not? A. I do not know.

Q. Did not they seem to be very particular on that point? A. They did not appear to me to be very particular.

Q. Are you particular in your memory about it? Can you remember what you told him?

A. I do not remember telling him 12th and 13th.

Q. Did you tell him it was the 12th? A. I do not remember that I did.

Q. Did you tell him it was the 13th? A. From the time I got the date I could not have told him otherwise.

Q. Do you remember you told him it was the 14th at all? A. If my memory serves me, I think I did.

Q. Did you tell Mr. Covell it was the 12th? A. I think I did not.

Q. Did you tell him it was the 13th? A. I think I told him it was the 13th and 14th.

Q. Did you tell him it was the 12th or 13th? A. I think I told him the 13th and 14th.

Q. Did you tell him it was the 12th and 13th? A. I do not think I mentioned the 12th.

Q. Did you tell him it was the 13th or 14th? A. I told him it was the 13th and 14th.

Q. That is the best of your recollection? A. That is the best of my recollection.

Q. Have you any doubt that you told him that? A. No, sir; I have no doubt that I told him that. Mr. Covell said to me that Mr. Knapp had said it was the 12th and 13th; I told him I had no recollection of it; that the only way I fixed the date was the date of entries in our petty cash book.

Q. Did your petty cash book have that date? A. It shows that one of the proprietors of the store left in the afternoon of the 12th and returned on the 15th.

Q. Did you tell Major Field you saw him on the 12th or 13th? A. I do not remember whether I did or not.

Q. Did you tell Major Field it was the 14th? A. In all probability.

He is their strongest witness on that subject.

I now come to the witness Stewart, page 843:

Q. Do you recollect a gentleman coming in that day to speak about getting a suit of clothes there, who had on anything peculiar in the way of dress? A. On the 13th or 14th of April, I do.

Q. Which? A. I cannot say which, but one or the other.

Q. Describe as well as you can his dress. A. It was a style of cut which I had never seen before, nor have I since, until to-day. I refer to the cut and the make of the coat.

Q. How long did that person remain in the store? A. I should say I saw him twice. That is, I stepped from one store to the other and saw him twice. He was there from ten to twenty minutes. I cannot speak very definitely as to the time.

Very likely he did see him twice; but when he is asked whether it was the 13th or 14th he says he cannot tell which. I now turn to his cross-examination, page 844:

Q. Will you tell us what day of the month it was? A. It was either the 13th or the 14th.

Q. Which? A. I cannot tell which.

The 13th or the 14th, and that, gentlemen, is all he says in that way.

I turn next to the witness Atkinson, page 730:

Q. Do you recollect of a gentleman coming into that store on the 13th or 14th of April with any peculiar dress? A. I do.

Q. Have you any means of fixing the date? A. The only means I have of knowing the date is this fact, that it was the time when one of our house was in New York buying goods. I made an entry in the cash book showing when he took money to go to New York, and when he got back from New York and settled his account.

Q. State when he left. A. The date of his leaving is the 12th of April, 1865.

Q. The date of his return? A. The 15th of April, 1865.

Now, gentlemen, I surely cannot find fault with such witnesses as those. They do not know. Between the 12th and 15th somewhere they saw this man with a peculiar dress; but they cannot tell which day it was. The day they saw him was no doubt the 13th; but all they could swear to positively was to have seen him on some day between the 12th and 15th.

I come now to Dr. Bissell, and here I have to confess we have something to meet. Up to the time when he gave his testimony on the question of the *alibi* we had nothing to meet; but his testimony is something that we must get over. The counsel for the defence got over it by saying as little as possible about it.

Now, let us see about this distinguished physician, who is a neighbor of mine in New York. We will have to take up and consider his testimony a little; for you know he saw him in Elmira on the 14th. I do not wonder that the counsel on the other side did not touch him; but we will see what he tells us. I read from page 984:

Q. Was there any particular reason why you observed the prisoner? State whether you were on crutches at that time. A. I was on crutches at that time. I stopped at a little house; I cannot recall the name. Names are the worst things for me to remember in the world. I can remember faces.

Q. You did not stay at the Brainard House? A. I did not. I stopped at a little house on the street that runs from the east end of the depot, south or southwest, on the south side of the street, where I had been in the habit of stopping. It was so near morning that I went up and laid down on a lounge in the sitting-room or parlor until breakfast time. I ate my

breakfast, and went out in quest of this man. I ascertained that he was not in Elmira. While out, I went to a third party whom I had been directed to by letter from the town of Deposit, I think, to find him. After going and doing my business, I called at the Brainard House. I thought I would take a bus to the depot and take the train back to Owego.

Q. State if you had any conversation with the prisoner at that time. A. As I went in he passed me. I noticed his dress as he passed me. I went into the reading-room or office there and sat down. He came in from the bar-room or office, or reading-room, to the room I was in. He passed up and down, and kept looking at me. He wanted to know if I had been to the war. I didn't give him any satisfaction. I did not have a great deal of conversation with him. I wished to avoid it myself.

Q. Referring to your lameness, he asked if you had been to the war? A. Yes, sir.

Q. And then you had a brief conversation with him? A. Yes, I had a little conversation with him. I merely spoke with him to see if my suspicions were correct; to satisfy myself; to see if he would attempt to draw me out, or anything of the kind. I wanted to satisfy myself whether he was a spotter of the Erie Railroad Company.

You know this doctor tells you that he was here hunting up witnesses for his case, which he had placed in the hands of Mr. Wetmore, whose testimony on that subject and on the character of Dr. Bissell you will remember.

I next read from page 985, cross-examination:

Q. When did you first tell these gentlemen what you knew—when did you first come here? A. I came here this morning.

Q. When did you first have notice you were wanted? A. Yesterday afternoon.

Q. How did you know they knew anything about it? A. I do not know. I have asked Mr. Bradley how it was.

Q. Did you find out? A. He will not give me any satisfactory answer. He said he had been looking for some time for a man on crutches.

When he came in he did not have any crutches, I believe; but when he went out he needed some very badly, as you will see. Finding him so positive and fixed in this matter, I very naturally asked him some questions. He came on with much parade, as you remember, as a doctor. That being the case, I thought I would find out about his patients, and he told us that Mr. Wetmore was one of them—a lawyer whom I happened to know in New York, and whom we had here on the stand, and who told you there was no truth in the statement. Dr. Bissell was his client in the Erie railroad matter, but he was not a patient of the doctor's.

I asked him:

Q. Have you any other patient in New York? A. I am not doing a large amount of practice.

Q. What are you doing? A. I do a little office practice, and I have some outside business which I am connected with now.

Q. What do you call outside business? A. Well, I am engaged, for one thing, with Andrew M. Rankin, formerly of Chambersburg.

Q. I do not care who he is; I want to know what you are doing? A. I am engaged with him in developing some patent rights which he has.

Q. What are they—about doctors? A. No.

Q. Anything to do with doctoring? A. Yes.

Q. What? A. They are disinfectant, and may be termed hygienic.

Q. Do you know Aaron Stone, in New York? A. No, sir.

Q. Has it anything to do with his disinfectant business? A. No, sir.

Q. What are you doing in that business—that outside business? A. We are developing it.

Q. What do you mean by that? A. Getting it ready to get it upon the market.

Q. Have you got it upon the market yet? A. We have got one patent upon the market.

Q. What one patent? A. It is a patent chamber pot.

I now turn to page 991. He there tells us a little more about himself. He cannot surely complain if I only read what he says about himself:

Q. You did not prescribe for any particular class of diseases. A. No, sir.

Q. Nor follow any peculiar business? A. No, sir; I made that a secondary matter.

Q. What a secondary matter? A. The business of a physician.

Q. What did you make your principal business? A. I have been in the habit of speculating, more or less, in one thing or another—in anything at which I could make a dollar legitimately.

Q. Whatever you could make a dollar at legitimately you went into? A. Yes, sir; it would make no difference what it was.

Q. And this doctoring was a mere side amusement? A. I merely put my name up.

Q. When you were keeping a restaurant and drinking place did you have your name up as a doctor? A. No, sir.

Q. Did you doctor any of your customers then? [Laughter.] A. I do not know that I did.

Q. They did not apply to you to be doctored? A. Not at all.

Q. They applied to you for drink? A. I never pretended to go behind the bar. I do not think I ever set out a glass of liquor for any one.

Q. Did you set out anything for them to eat? A. Certainly; my men did.

Q. Then doctoring is not exactly in your line?

A. Not exactly.

I next read from page 997, where he tells us more about himself:

Q. Did you take the train? A. Yes, sir.

Q. What train did you take? A. The night train from New York. It is my impression that I took the train about two o'clock.

Q. At night? A. Two o'clock a. m.

You will remember we called Guffey, who ran the trains, and he told us there was no such train at all. By turning to page 951 counsel will find Mr. Guffey so states. That a train came in there at 6.12 was a story gotten up by Dr. Bissell.

There was no truth whatever in his story. I then went on, as you remember, to ask where he went in Elmira. I examined him in regard to the Brainard House, about how it looked, and about its rooms, &c., and he knew not one thing about it. And you will recollect the falsehood he told of going to the Haight House, which was then closed and locked.

But, again, hear what he says of himself. I next read from page 1003.

I asked him about this house. I tried to get him to draw the rooms. He said he could not draw, and declined to make any attempt.

I then said:

Q. Perhaps you can tell us something about it, as you say your memory is very distinct on such subjects. Which way were you going when you entered the house? A. I was going directly toward the house. [Laughter.]

Q. Were you crossing the street? A. I was upon the sidewalk upon the same side as the house.

Q. Did you go up steps to get in? A. I do not know whether there is one step, two steps, or three steps.

Q. Were there any? A. I am not positive that there was a step to the house or not.

Q. What is your best memory about it? Were there high steps or low steps, one step or two steps, or none at all? A. I could not say.

Q. Were there stone steps? A. I could not say.

Q. As you entered, was the sill of stone or wood? A. I could not say, for I paid no attention to it.

Q. Was there a platform upon the side made of wood? A. I could not say.

Q. Was there a platform there made of stone? A. I could not say.

Q. Did it run in right level? A. I could not say.

Q. Was there a high stoop of stone? A. I could not say.

Q. When you got in, what was on your right hand? A. I do not know.

Q. What was on your left hand? A. I do not know.

Q. What was in front? A. I do not know.

Q. Was it a double house or a single one? A. I do not know.

Q. But you went into a reading room and got into intimate conversation with the prisoner? A. Yes, sir. I went in and sat down in a chair.

Q. Where was it, on the right or left hand? A. I cannot say whether it was upon my right or left as I entered.

Q. Was it either? A. I cannot say as to that.

Q. Was there a reading-room on the right hand? A. I cannot say.

Q. On the left hand? A. I cannot say as to that.

Q. It was the first story you went into when you went into that room? A. I think it was, but I am not positive.

Q. Was it in the second? A. I think it was on the first.

Q. Can you tell whether on the right hand or the left? A. I cannot.

Q. Can you tell whether it was on either? A. I cannot.

Q. Were there any newspapers in it? A. I do not know whether there were or not.

Q. Was there a library in it? A. I do not know whether there was or not.

Q. Was there a settee in it? A. I think I sat upon a settee.

Q. Were there chairs in the room? A. Either settees or chairs.

Q. Which? A. I cannot tell which. I paid but very little attention.

Q. You know you have a very distinct memory of things. Now, as you recall that Brainard House, can you tell whether, when you went into that reading-room, Surratt was on the left hand or in front? A. No, sir, I cannot.

Q. Where was the desk? A. I have no distinct recollection as to where that was.

Q. Did you see a billiard table in there? A. Possibly I might.

Q. What is your best memory? A. I do not recollect of seeing one, though I might have seen half a dozen.

Q. Did you see a telegraphic machine there? A. I do not know that I did. I have no recollection.

Q. Was there a carpet on the reading-room? A. I do not know.

Q. Was there a table in it? A. I do not know.

Q. Was there a man in it? A. Yes, sir.

Q. Tell us who the man was? A. That man (pointing to the prisoner) came in there, and there were three or four others.

Q. Is there any doubt about that? A. No, sir; not in my mind.

Q. Did he come in alone? A. He did.

Q. How long had you been in when he came in? A. I saw him first upon the sidewalk going into the house.

Q. How long had you been in when he came into the room? A. I had been in there, I should think, some fifteen or twenty minutes before he came into the room.

Q. When he came in was there anybody else in the reading-room beside yourself? A. I think there were some other gentlemen sitting there.

Q. What were they doing? A. I cannot tell. I was paying no particular attention to them.

Q. Were not they reading? A. They might have been.

Q. Cannot you bring back which side it was, or anything of the kind? A. I cannot.

Q. Was the room papered? A. I cannot say.

Q. Can you tell what color it was? A. I cannot. I cannot distinguish colors.

Q. I cannot see, then, how your sight is so good as to remember. A. I can tell white from black; but when you come down to these fancy colors, I cannot tell anything about them.

Q. Who got up first? A. I got up and left, and went to Haight's Hotel.

Q. When you got up and left, did he get up? A. I do not think he did.

Q. Did you ever see him any more? A. Never again until I saw him to-day.

Q. When you got to Haight's Hotel what did you do? A. I stopped there a few moments.

Q. What did you see at Haight's Hotel? A. It is so long ago I cannot say. I saw some people in and about there; who they were I do not know. I am not acquainted with many people in Elmira.

Q. When did you see this man, who is a prisoner here, after you saw him at the time of this conversation? A. This morning.

Q. You recognized him in a moment, didn't you? A. Yes, sir; I recognized him the moment the door was opened.

Q. In here? A. No, sir.

Q. Where was it? A. In the jail.

Q. Was he dressed as he is now? A. He was not dressed at all then.

Q. Was he dressed as he is now, or dressed in some different costume? A. He was in a different costume.

Q. Why, then, do you say he was not dressed at all? A. If I see you with a sack or a dressing-gown on, I would not call you dressed.

Q. Was he dressed in the jail in the same way that you saw him dressed at the Brainard House? A. Partially, but a different colored suit.

Q. In what respect partially? A. In the sack that he had on.

Q. It was of the same cut, was it not? A. No, sir.

Q. How was it partially the same? A. It had a belt that fastened around him; but it was of a little different style.

Q. What was the difference? A. There was a difference about the neck, and there was a difference on the plaiting.

Q. You noticed particularly about the neck? A. Yes, sir.

Q. And you remember that very distinctly? A. Yes, sir.

Q. Then you remember just what the plaiting was there? A. I remember that it was plaited, but not so distinctly that I can describe it. I know it was different from what this is.

Q. You say that you describe this plaiting that you saw two years and more ago? A. No, sir.

Q. State whether you recognized him at once? A. As quick as the door was opened I remarked to Mr. Bradley that he was the man; that I did not want to see anything further of him. I described him to Mr. Bradley, and told him that I did not want to go to the jail to see him.

Q. When did you say you first got the telegram? A. I think it was yesterday, a little past 1 o'clock.

Q. Were you greatly surprised at it? A. Yes, sir.

Q. What surprised you? A. That I should have a telegram to come here.

Q. Why did that surprise you? A. I could not imagine who had informed of what I said regarding it.

Q. Didn't you imagine that your evidence would be of great importance to the defence if you had seen him in Elmira on the 14th? A. I was not positive as to the man. I said it answered the description of the man I saw, and if I could see that man I could tell.

Q. I ask you if you did not think it would be of great importance to the defence if you had seen him in Elmira? A. No; I did not think anything material about that.

Q. You did not think it would be? A. I paid no attention to it. I merely came to the conclusion that I was not coming.

Q. What made you conclude that you were not coming? A. I did not want to have my name mixed up in the matter one way or the other.

Q. Somebody, you say, came to see you? A. Yes, sir.

Q. How did they change your mind on this subject when you were so firm and determined not to come? A. He said this: If you do not go, I shall proceed to Washington immediately and lay your statement before his counsel, and the only effect will be to delay the court until a subpoena can be gotten out and served upon you here.

Q. Who said this? A. Mr. James W. McCullough.

What do you think about a man talking in that style, who comes here and tells you, when this man is on trial for his life, and knowing that he was endeavoring to prove an *alibi*, that he did not think it was of the slightest consequence to come and let him know that he could prove he was in Elmira on the day of the murder?

I will now, in this connection, direct your attention to the testimony of Mr. Wetmore, his lawyer, page 1149:

Q. How long have you known him? A. Since 1863.

Q. Has he ever been your physician? A. Never.

Q. Have you any letters or memoranda with you that you brought from New York that tend to fix dates? A. I have some letters, or had some, which I handed to General Foster.

Q. Were they letters that you wrote? A. Yes, sir.

Q. You can tell the jury whether, on the 14th of April, Dr. Bissell was in Elmira hunting up witnesses for this suit? A. I think not.

Q. Why? A. My reason is, that on yesterday (having been subpoenaed the night before) I went to the office of Mr. Eaton, who was the counsel opposed to me in that case.

Q. Of the Erie railroad? A. Yes, sir. After some conversation Mr. Eaton presented to me these letters, which I wrote to him on the 11th, 12th, and 13th of April, 1865, and also 25th and 27th.

This is the testimony of his lawyer, Mr. Wetmore. They were documents that we could not put in evidence, but they were letters that were addressed to his own lawyer.

Q. Have you examined them? A. I have.

Q. Do they refresh your memory with regard to any fact? A. They do not exactly refresh my memory, but they confirm me in my impressions that during this time Dr. Bissell was in my office, and also of the fact that Mr. Eaton came there to see him.

Q. What date was that? A. I cannot fix the date that Mr. Eaton was there. On the 11th, 12th, and 13th of April, 1865, I wrote to Mr. Eaton, and he presented those letters to me, and which confirmed me in the impression that Dr. Bissell was at that time in my office, and endeavoring to settle the Erie railroad suit.

Q. Did you settle it? A. Yes, sir.

Now we turn to what he says about his character for truth:

Q. State whether you know the doctor's character among the people for truth and veracity. A. I have heard the character of Dr. Bissell very much canvassed.

Q. What did you find that to be—good or bad? A. I must say that his general reputation was bad.

Q. Was it very bad? A. Yes, sir; it was.

And, as you observed, from the different places where that man had lived, there came pouring in witness after witness, which are put upon the stand, the effect of whose testimony was to give him the most blasted reputation that I ever heard given to any man in a court of justice. And voluntarily did they come. Now in the course of this examination this occurs at page 989:

Mr. PIERREPOINT. Won't you turn a look toward the jury?

Mr. BRADLEY. And let them see your face.

Mr. PIERREPOINT. The counsel is right. I want them to see his face; we both agree. (To witness:) Now, where in New York were you living? A. I was boarding, before I went there to keep house, at 1160 Broadway.

I think you remember his face. I am sure you will not readily forget it. No wonder that he could not give any answer to my questions. He was not in Elmira at that time, and I doubt whether he had ever been there, for he was unable, as you perceived, to give a description of anything. I repeat, I do not believe he ever saw the place. It is certain he did not go by the train in which he swore he went. It is equally certain he was not there for the purpose of getting witnesses in the suit of which he spoke, because that had already been settled. I think, gentlemen, you saw he was telling a falsehood from the very expression of his face. I was very anxious, as this record shows, that he should turn his face towards you. For through his dull and horny eyes I could see *lies* generating perjuries in his brain, like flies in a rotting carcass, and then a slow stream of slimy larvæ driled from his loathsome mouth, requiring more than all his "patent pots" and "patent disinfectants" to cleanse the air of the perjured and polluting odor. There was not a word of truth in anything he said.

Gentlemen, I have done. I had no expectation of occupying you so long, for I did not know that what I had to say would spread over so much ground. I cannot express to you in words my feeling of gratitude for your kind attention. I have never before seen men listen so long and so attentively. I feel that you have been listening for the purpose of getting at the truth in this case. That is what I have endeavored to aid you in reaching; and, with the assistance of the court and your consciences, I feel confident you will reach it. This is a matter affecting us all, with regard to our future as well as our present; affecting the stability of this and other civil tribunals of a like character—a tribunal without which there can be no liberty. Once pass from under civil to military law, have all crimes tried by military tribunals, instead of by a jury of your peers in a court of law, and then you may bid farewell to liberty.

It depends on jurymen and on courts whether it shall live or die; and let me assure you that liberty will not live without justice. It is that which keeps it alive. With injustice it cannot live; nor with rapine, murder, and crime unpunished. Neither you nor I, nor any son or child of ours, has any protection whatever in the community, if crimes are allowed to go unpunished. The government is for the protection of us all. It is not for the sake of vengeance or of blood. It is for the protection of society.

I have endeavored, in bringing before you this case, to have nothing brought before you that was not true, and to urge nothing upon you except those great principles which lie at the basis of our free institutions, and upon the sanctity and preservation of which our liberties depend. We have passed through a great struggle, during which rivers of blood have been shed. Have you in your rides, while this case has been going on, passed up beyond the Soldiers' Home? If so, you have seen a little city there. The streets of it are green. They are watered by a nation's tears. Five thousand brave men lie there in that city of the dead. Go to other portions of this land, and you will find 335,000 more of our young men lying in those silent cities. Is it all for nothing? Think you from their mouldering flesh no plants will spring, no fruit will grow? And think you their spirits would not come out from their tombs if they were to know that an assassin, a plotter, an aider and an abettor in the murder of the head of the government was, by your verdict, to go free, after having been clearly proven to be guilty? If a jury of loyal citizens say this plotting against the life of the chief of the nation is all right, what will the entire civilized world say? What the Pope of Rome, who hastened with such alacrity to deliver up the fugitive in order that he might be brought back to the city of his crime to be tried by an intelligent jury of his countrymen? Gentlemen, what have we been taking all this trouble for if you are to say to the fugitive who was thus concealed so long, and went through so many hardships to escape from justice, "Why, foolish man, why flee? There is nothing wrong in what you did; it is all right; there is no guilt in anything you have done." At such a declara-

tion, gentlemen, from you, the blood in men's veins would run cold; the valves of the heart would cease to open; the very stones of the street would cry out; and there is not an honorable rebel in the land who would not utter his curse upon such an act.

Now, gentlemen, there has been a great deal said to you about our having had blood enough. That is not the question here. The question is, whether we are to stop crime. I have no thirst for blood. I would not take the life of any fellow-creature if I could help it, unless it were to maintain the majesty of violated law and to prevent the destruction of my country, and then I would not hesitate. For that purpose, and for that purpose alone, would I do it, not from any love of blood. You have nothing to do with that—nothing at all. I have nothing to do with that; that lies with the Executive. It is in the Executive power to make whatever adjustment of any punishment for crime he may see fit. That is not our business; our business only is to determine whether the man charged with the crime is guilty. That is all we have to do, and it is left to the other powers to inflict the punishment or to modify it, as may seem to them best. I have only to say that when the man is found guilty, honest men will say so. No *honest* man can say anything else.

In this case, I feel justified in saying that the prisoner is proved to be guilty, and in as overwhelming a manner as any man was ever proven guilty in the history of jurisprudence. I appeal to any judge, any lawyer, any man who has had experience, if there ever was a case where the guilt of the party was more clearly demonstrated. He is proven guilty, not only beyond a reasonable doubt, but beyond the possibility of any doubt. There is not a man of you who can doubt it. It has been a strange case. It was a strange providence that brought the man back here to be tried. And now that he is here, you, the twelve men who in the providence of God have been selected to try the case, are to say whether what he has done is right or not right; whether he is guilty or not guilty. That is for you to say, not for me. I know he is proved guilty. About that there can be no doubt. I do not believe that any of you have any doubt whatever on that subject.

Now, the counsel have seen fit to reflect upon the district attorney, or upon the counsel for the government, for the utterance of a sentiment to the effect that the court would not dare to do wrong. No honest man dares to do wrong. Every honest man dares to do right. Do right, and no wrong ever follows. Do wrong, and evil and misery are sure to follow.

In 1843 I was in the city of Columbus, Ohio, and a man by the name of Clarke was on trial for murder. Mr. Swayne, who is now a judge of the Supreme Court, was prosecuting attorney in that case. It is reported in the Ohio Reports. The defence was insanity. A great many doctors were brought to prove he was insane; others testified he was not insane. The jury were an honest, conscientious jury, and they were sent out. They were out all night. In the morning when the court convened they had not agreed. The court was silent and still. The jurymen were in a room corresponding with that, (pointing to witness room.) Soon after the court opened we heard the solemn voice of prayer. Some jurymen had doubted whether the man was insane, and inasmuch as it was a capital offence, and they were good men, and wanted to do right, they proposed that the jury should kneel down and ask the God of light and truth to enlighten their minds, and they were in earnest prayer when the court opened. A Mr. Wilcox, a devout man, who feared God, known well to one of those judges sitting by your honor's side, (he is now gone to his home in heaven,) said to me, "That jury will agree." The jury arose from their bended knees; their minds were enlightened; they walked into the court-room and said, "He is guilty."

Gentlemen, if there is a man of you who is in doubt in this case, or any number of you, and you will take that test, it is all I ask. If once you are doubting,

you will go before your God, and go on your bended knees, asking for that light which comes alone from Heaven, to enlighten your minds to a knowledge of the truth; as you rise from your knees, I know that God will give you light, and I will say that your verdict is all right, whatever it shall be. Take that test, and you will have no trouble; take that test, and your conscience shall be at ease. You will feel that you have done your duty to yourselves, to your country, and to your holy oath—to the God before whom you and I shall soon appear, and until which you and I may never meet again after we part from this place. And then, having done your duty to the end, if you desire it—

“———you may join with them
Who see by faith the cloudy hem
Of judgment, fringed with mercy's light.”

